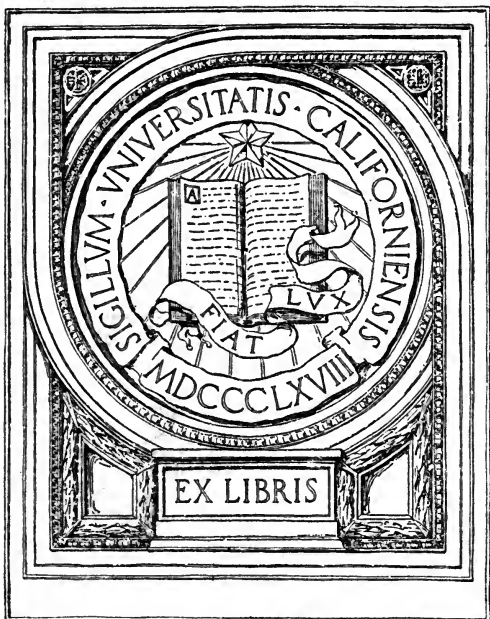


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# STUDIES IN ECONOMICS AND POLITICAL SCIENCE.

Edited by the HON. W. PEMBER REEVES, Ph.D.,

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## ENGLISH PUBLIC HEALTH ADMINISTRATION



# ENGLISH PUBLIC HEALTH ADMINISTRATION

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## PREFACE.

THERE are many good books dealing with sanitary administration. They are, however, as a rule divisible into two classes; they are either purely formal legal works giving the text of the various Acts of Parliament annotated by comments and references to judicial decisions, or they are practical handbooks for sanitary officers, and contain, mixed with many administrative matters, information about methods of laying and testing drains, distinctions between sound and unsound food, hints upon the cultivation and recognition of pathogenic bacteria, etc. None of them treat the public health department as an administrative unit of the system of local government. This book is an attempt to rectify this omission by providing a survey of the administrative technique of the public health department.

In so doing I hope to meet a double need: that of persons interested in the public health service as students or as electors or elected persons; and that of officials, especially the younger ones, of the public health departments who are preparing for some of the examinations now held for clerks by the National Association of Local Government Officers and for sanitary inspectors by the Sanitary Inspectors' Association, the Sanitary Inspectors' Examination Board and the Royal Sanitary Institute.

It is a pleasant and necessary duty to acknowledge the debt I owe to various gentlemen for inspiration and information without which this work could never have been undertaken or completed. To Mr. Graham Wallas I owe the original suggestion that I should make such a survey of public health administration, and throughout its preparation I have received from him that constant aid and encouragement which his friends and students know so well and appreciate so highly; my obligation to

him has been greatly increased by his kindness in consenting to write an introduction to this effort of mine. For information and suggestions in various sections I am deeply indebted to Professor E. J. Urwick, J. Biernacki, Esq., M.D., Superintendent of the West Ham Isolation Hospitals, E. T. Rhymer, Esq., Barrister-at-law, and Messrs. O. Bentley and S. F. Mann, of the Town Clerk's Department, West Ham, and C. A. J. Hunter, of the Treasurer's Department, West Ham.

To C. Sanders, Esq., M.B., the Medical Officer of Health for West Ham, and my superior officer for nearly seventeen years, my debt for his constant kindness and willingness to give or to allow me access to information is too great to be adequately expressed in words ; many administrative difficulties dissolve easily when the relations of subordinate and superior officials are so uniformly friendly and harmonious as they are in the West Ham Public Health Department. To my other colleagues in the service of the West Ham Corporation I have to pay a tribute for information at all times ungrudgingly given, and specially must I mention Mr. G. W. F. Ellis, of the Public Health Clerical Staff, for his unremitting efforts in collecting information, verifying references, and making suggestions without which, I fear, my labour would have become prolonged and tedious.

For responsibility for errors which, despite great care, may possibly have crept in, and for expressions of opinion which may not be palatable or appear justified to all my readers, I exonerate everyone and accept all blame. Of instances of the former I shall be glad to hear for future correction, and of contrary opinions I shall be pleased to have information, since it is only by a free and frank interchange of opinions and ideas that we can hope to arrive at the truth and keep the administrative machine working with ease, economy and efficiency.

B. G. BANNINGTON.

WEST HAM, *July*, 1915.



## INTRODUCTION.

MR. BANNINGTON and I have known each other for a dozen years, ever since he was my best student at a West Ham University Extension course. I recognise indeed a quotation on page 3 which dates from that course. But I have a better reason than personal friendship for recommending his book. It is, as far as I know, the first general treatise (since Sir J. Simon's "English Sanitary Institutions," now obsolete) on modern English public health administration which is likely to be equally useful to students and to officials. So far the student has had to content himself in the main either with popular hand-books on the subject or with the rather superficial chapters on public health in books dealing with local government generally. The official has used the successive editions of Lumley's "Public Health Acts," admirable for working reference, but impossible to read or remember as a whole. Mr. Bannington aims at covering the whole ground, with, perhaps, a certain amount of repetition due to his desire to make each chapter complete in itself. But his book is a treatise and not a dictionary. Both the official and the student who uses it will be impelled to think for himself under the guidance of a man who for the last seventeen years has earned his livelihood not as a lecturer or writer of text-books, but as a sanitary inspector visiting every day the homes of a great industrial district.

My own first thought as I read the book was that the administrative machinery which deals

with English public health is extraordinarily new. Since Disraeli's great Public Health Act of 1875 the current expenditure of sanitary authorities in English urban areas has been more than quadrupled. In the larger areas the single medical officer of health with perhaps a single inspector of nuisances and one assistant inspector has developed into a great specialised service of medical men and women, analysts, bacteriologists, veterinarians, clerks, lecturers, nurses, visitors, and trained inspectors of food and drugs, drains, ships and canal-boats, shop hours, and open-air schools.

The body of accumulated science which these men and women administer has grown even more rapidly, and Mr. Bannington would perhaps be the first to admit that the willingness of the ordinary householder to be guided by scientific authority in the management of his home, insufficient as it still is, has grown more rapidly than anything else.

Statistics show that the actual success of sanitary science in overcoming the dangers arising from the increasing density of population is also new. The death-rate per thousand of the English population only fell from 19·9 in 1850 to 19·3 in 1890, but was 15 in 1907 and 13·7 in 1913. The infantile mortality actually rose from 146 per thousand births in 1850 to 151 in 1890 and was reduced to 109 in 1913.

A service so new, in a nation so unwilling as are the English to look forward in matters of organisation, is almost certain to be out of date in much of its machinery and traditions. Mr. Bannington as a result of his daily experience constantly urges the reconsideration of both. Sanitary law should be codified and simplified. The financial and

administrative relations between central and local government in sanitary matters should be reconstructed. Some order should be introduced into the overlapping relations between the local authorities, sanitary, poor law, educational and "insurance." It should be no longer true that (as Mr. Bannington points out on page 326) "we have members of the same household undergoing treatment in the institutions or at the hands of the officers of the sanitary authority, the guardians of the poor, the education committee, the insurance committee, and some one or more of the voluntary hospitals or nursing associations."

We should understand that the "inspector of nuisances" is no longer a humble sort of parish constable watching to see that people do not, from carelessness or selfishness, commit acts which they and everyone else know to be wrong, but the administrator and exponent of a changing and growing applied science. The training of the sanitary inspectors, the examinations which they pass, their opportunities of promotion, should no longer be left to chance. The increasing importance of women in the service should be recognised and provided for. If the necessity of maintaining the sharp distinction between the medical and non-medical officials is felt to prevent even the best of the non-medical officials from reaching the most important administrative posts, opportunities of advancement should still be offered to all who show themselves possessed of the too-rare power of administrative initiative. I have myself, for instance, often thought that the officials and inspectors of the Local Government Board should be recruited to a much larger extent than at present from the best of the local officials. In every Government department local experience

should be present to give life and meaning to the accumulating bundles of paper reports and returns, and, as we are now learning under the sharp discipline of war, every Government office should be a place where men are trained to be on their guard against the first symptoms of the "official mind" and to welcome instead of shrinking from the effort to realise the effect of new knowledge. Anyone, for instance, who reads the paragraphs of Mr. Bannington's book dealing with milk and slaughter-houses will see that we have as yet done almost nothing to apply the lessons of modern bacteriology to the problems arising from our use in the towns of animal food produced in the country.

As I write this I find myself wondering how far I myself am still living in the traditions of that distant epoch which came to an end in August, 1914. When the war is over shall we not have to face the most important of all new facts, that we are a poor and no longer a rich country? Will not the problem before our statesmen be that of cutting down instead of extending our sanitary service? But I remember that in that distant epoch I was teaching a class of His Majesty's military officers the nature of local public finance. I quoted to them a sentence of the late Lord Avebury's: "It is evident that the more we spend in rates and taxes the less remains to be spent in other ways." They unanimously agreed with Lord Avebury, until I asked whether we should have more to spend in London if we saved by disbanding the London police, ceasing to pump London sewage, or selling the London schools. I argued that the cutting down of local expenditure could be so arranged as to reduce the earning capacity of the average Londoner to that of the

average inhabitant of a Hindoo village, and they unanimously agreed with me.

Even if, after the war, the recovery of our financial position is to be the sole end of English life, that recovery will require wise expenditure as well as wise economy. And hard thinking, which is the most profitable of all national possessions, does not always cost money.

GRAHAM WALLAS.

LONDON UNIVERSITY.



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# ENGLISH PUBLIC HEALTH ADMINISTRATION.

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## CHAPTER I.

### HISTORICAL DEVELOPMENT.

THE essentials for healthy existence are the same to-day as they were at the dawn of history ; but as numbers have increased and society has become more complex, so have these essentials become increasingly difficult of attainment. Mankind has gradually understood and recognised the importance of air, water, food, shelter, and clothing, sufficient in quantity and pure in quality, and, in various ways, has made collective efforts to secure them. Out of these efforts have grown the mass of legislation, network of authorities, army of officials, and the numerous and costly engineering works which to-day exist in all civilised States for the purpose of securing and maintaining the public health.

Many of the customs and taboos of primitive races probably had an element of hygienic prevision in their origin or survival, and the tribes best protected in this way would be those who would multiply and survive the ravages of disease or warfare. The Jews have handed down in Leviticus and Deuteronomy fairly complete sanitary codes, whilst of later civilizations, notably the Roman, we have historical knowledge of health laws and officials, and the visible remains of great sanitary works of water supply and sewage removal. The contagious character of certain

## PUBLIC HEALTH ADMINISTRATION.

diseases was recognised in the Middle Ages, and gave rise to the enforcement of quarantine regulations and the building of leper-houses for persons suffering from leprosy. About the same time municipal and private enterprise was providing water for some of our towns. Later, the modern laws as to building, town planning, and overcrowding are to be found faintly foreshadowed in Tudor legislation, about the same time as the Fishmongers' Company was endowed with the power of inspection of fish and the seizure and destruction of any found unsound, a function still performed by this body.

Mediæval Governments were not, as is generally supposed, quite indifferent to questions of public health. As early as 1388 a law was passed providing a penalty for casting animal filth and refuse into rivers and ditches, town officers being ordered "to clean their towns of all that would corrupt and infect the air and bring disease." A century later the slaughtering of cattle in cities and boroughs was prohibited. Nor were such laws altogether neglected; manorial and borough bye-laws were enforced more or less generally in the effort to secure a moderate degree of cleanliness in the streets and the soundness and purity of food. It is on record that Shakespeare's father was fined in 1552 for violating the bye-laws of the Manor of Stratford-on-Avon by depositing refuse in the street, and again in 1558 for not keeping his gutters clean; and in 1512 a Mayor of Nottingham was presented at the leet court for sundry misdemeanours such as selling herrings that were unfit for food and for beginning a muck hill.<sup>1</sup> The organisation of the guilds was to some extent a police system<sup>2</sup>; "in their political aspect they formed the subordinate mechanism of self-government and the organs of local administration. In their economic aspect they were the instruments by which the town carried out that

<sup>1</sup> M. Dormer Harris, "Life in an Old English Town," p. 118.

<sup>2</sup> Cunningham, "Growth of English Industry and Commerce (Early and Middle Ages)," p. 344.

policy of supervision which the opinion of the time deemed necessary.<sup>1</sup> "Neither government, municipal or sanitary inspectors, nor a clerk of the works was needed. The searchers of the craft saw to all that."<sup>2</sup>

That in many places such regulations were quite ineffective is amply shown by the graphic description of the state of Hythe as presented by a jury at the beginning of the fifteenth century<sup>3</sup> :—

"Streets were choked with the refuse of the stable, made impassable by the 'skaldynge de hogges,' flooded by the overflow of a house, drowned by the turning of a watercourse out of its way or the putting up of a dam by some private citizen heedless of all consequences to the public way. Timber dealers cast trunks of trees right across the street, dyers poured their waste waters over it till it became a mere swamp, builders blocked it up utterly with the framework of their new houses and traders made their wharves upon it. Not only the most thriving and respectable merchants, but the butcher and swinekeeper as well threw the waste of house and shambles and swinecote into the open street till there was scarcely any passage left for the wayfarer; or established a 'hoggestok,' which smells very badly and is abominable to all men coming to market as well as to all dwelling in the town,' say the jury. There was hardly a street or lane which was not described as 'almost stinking and a nuisance.' The 'cherche weye' was occupied by the pits of a skinner . . . gates, streets, ditches and hedges in disrepair. . . . Worse still, the Holy Well was choked with refuse and so was the well in West Hythe, and 'the water in the cart of Geoffry Waterleader, by which the whole community is refreshed' was equally obstructed and spoiled by the refuse of the butchers' shambles."

It is not to be wondered at that pestilence when introduced decimated the population of such places.

Public health law and administration is based upon sanitary science, which in its turn depends upon the laws of health derived from the study of physiology and kindred

<sup>1</sup> Ashley, "Economic History and Theory," Vol. I., Book II., p. 25.

<sup>2</sup> Lambert, "Two Thousand Years of Gild Life," p. 367.

<sup>3</sup> Mrs. A. S. Green, "Town Life in the 15th Century," pp. 29-30.

sciences. In Tudor times the science was lacking ; “ the apothecary was still a variety of grocer, the surgeon still a variety of barber, and the physician but just ceasing to be an ecclesiastic.” <sup>1</sup> In the seventeenth century, however, differentiation of function and specialisation in research resulted in tentative suggestions as to the causation of disease and ushered in the dawn of preventive medical science, whilst towards the end of the eighteenth century the industrial revolution changed the whole structure of social England and created new problems in every domain of life, not the least important being those concerned with the health of the people.

The industrial revolution consisted in the invention and utilisation of machinery driven first by water and later by steam power, and resulted in the employment of many workers in factories and workshops and the destruction of the domestic industries which were spread throughout the length and breadth of the land. The textile industry, which after agriculture was the most important in the country, was the industry chiefly affected before 1830. The manufacture of textiles was transferred to the sources of power, towns grew up without plan, houses were built without supervision or regulation, great masses of people gathered together without regard to health, decency or comfort, and soil, air, and water were polluted without restriction. The movement from rural to urban conditions was rapid and continuous ; the population of England and Wales increased by 47 per cent. between 1801 and 1831, and the rural labourers, who numbered two to every town workman in 1790, only numbered one to every two of the latter in 1831.<sup>2</sup> Everything was sacrificed to the production of wealth and the belief in the prevailing philosophy of individualism—let things alone and all will be well.

<sup>1</sup> Simon, “ English Sanitary Institutions,” p. 70.

<sup>2</sup> Report of the Select Committee on the Health of Towns, 1840.

But the resultant evils caused a reaction ; the humanitarian movement gained impetus and, amongst other things, attacked the conditions that caused ill-health to be the common lot, and resulted in one out of every thirty of the population of towns dying every year. In 1774 an Act of Parliament was passed for the purpose of securing the health of prisoners. " Prisons were to be whitewashed yearly, regularly washed and ventilated ; rooms were to be set apart for the sick, hot and cold water baths provided, and in cases of necessity clothes were to be lent to prisoners ; surgeons and apothecaries were to be appointed. Finally, the prisoners were to be kept above ground if it could be managed conveniently." <sup>1</sup> Ten years later Dr. Percival and others commenced those investigations which resulted in the passing of the " Act for the Preservation of the Health and Morals of Parish Apprentices and others employed in Cotton and other Mills " in 1802, the forerunner of a long series of Factory Acts.<sup>2</sup> It is typical of English legislation that it moves from precedent to precedent, dealing with many particular evils or special classes before the general character of a problem is realised and grappled with.

Fear, however, was more potent than philanthropy. Disease is no respecter of persons ; even the well-to-do were endangered by the suffering of the poor. The repeated visitations of cholera and other diseases were valuable auxiliaries on the side of reform. As the Royal Sanitary Commissioners stated in 1871 in their *résumé* of sanitary legislation, " the recent sanitary legislation in this country has been remarkably drawn out by and connected with three outbreaks of cholera which led to investigations of the means of preventing and mitigating infectious diseases, and so drew attention to the fact that the seats of endemic

<sup>1</sup> B. Kirkman Gray, " History of English Philanthropy," p. 184.

<sup>2</sup> Cunningham, " English Industry and Commerce (Modern Times)," pp. 628-9 ; Hutchins and Harrison, " Factory Legislation," p. 7.

diseases are generally where the air or water is polluted."

By the time of the first Reform Act the problems were being recognised and the remedies were fairly well understood, but the will to apply them and the machinery of government through which action could be taken were lacking. "The dense mass of working people brought together by the rapid growth of manufacturing, mining and commercial industry, presented sanitary difficulties of such unprecedented magnitude as to be at once novelties and puzzles for legislative treatment." Much advice, medicine, and regulation resulted from the temporary establishment of a Board of Health consequent on a cholera epidemic in 1831. Before 1837, outside a futile Quarantine Act and an annual vote of £2,000 for vaccination, "the central Government had nothing to say in regard to public health, and local authorities had but the most indefinite relations to it."<sup>1</sup> But the poor law and municipal government and factory legislation had come under the hands of the reformers, whilst the new system of registration of births and deaths and the reports of the poor law medical officers soon began to furnish accurate knowledge of the state of the public health. The inquiries of the Poor Law Commissioners in 1839 showed that individuals were helpless and that collective action was necessary but non-existent, whilst collective institutions were in a state of chaos. In the same year a Select Committee reported in favour of the organisation of local sanitary authorities to enforce building and drainage legislation, but, despite Chadwick's energy, nothing resulted.

Chadwick, asserting that "by no prudence on their part can the poor avoid the dreadful evils of their surroundings," advocated with all his great energy and persistence his scheme of *ad hoc* local authorities for dealing with public health. At last the Report of the Royal Commission on

<sup>1</sup> Simon, "Sanitary Institutions," p. 167.

the Health of Towns and Populous Places, issued in 1844-5, made further delay impossible. The sanitary conditions in this Report and those of the Select Committee and the Poor Law Commissioners were too terrible and menacing to be neglected. It was shown that houses, courts, and alleys were without privies or covered drains, but that fluids lay stagnant in open surface gutters; houses were dirty beyond description and extremely overcrowded, a large proportion of the working population being housed in "dark, damp, confined, ill-ventilated, and dirty" cellars, and "heaps of rubbish and refuse, vegetable and animal remains, lay at the bottom of close courts and in corners." This evidence applied with more or less force to most great towns, in which mortality rates of over 30 per 1,000 were frequent. The Select Committee on the Health of Towns roundly asserted that "to require the workers to be clean, sober, cheerful and contented under such conditions would be a vain and unreasonable expectation," and declared it to be "the duty of the Legislature to take effective steps to protect so numerous and valuable a portion of the community." Two attempts at legislation failed before the Nuisance Removal and Diseases Prevention Act was passed in 1846. In the following year the Towns Improvement and the Police Clauses Acts consolidated certain provisions generally required in local Acts for various public purposes, and in 1848 the first Public Health Act, "the groundwork of our sanitary legislation," created a General Board of Health, with power to create local sanitary districts with local boards of health either on petition by the ratepayers or compulsorily when the death rate reached 23 per 1,000. The local boards were required to appoint surveyors and inspectors of nuisances, and were given wide but optional powers, among which was the right to appoint a medical officer of health. The General Board of Health, without a representative in Parliament, created many enemies by its vigorous activity under the influence of Chadwick, and in 1854, after six years of

stormy existence, it was deposed in favour of a new Board with a paid President. Four years later this Board was abolished and its duties handed to the Privy Council, assisted by a paid medical officer. This year also marks an important departure in sanitary legislation, local boards being given powers under the Local Government Act to "compulsorily interfere with private property by purchase through the means of provisional orders," a power which the Royal Commissioners of 1871 noted as marking "an important and new step in legislation." In the same year (1858) the Medical Act, the charter of the medical profession, was passed. Before this date "the legal titles of medical practitioners were as various as the names of snuffs or sauces," and were guarantees neither of the knowledge or ability of their holders nor against the competition of anyone who chose to assume the title of doctor or surgeon. This Act "instituted for the first time a legal definition of the British medical profession; it directed the establishment and maintenance of a Medical Register," and created a superintending council, with power to remove from the Register the names of persons convicted of crime or guilty of infamous professional conduct. Although not going as far as desired by Mr. Cowper (afterwards Baron Mount Temple), the late President of the General Board of Health, it constituted a substantial advance upon the previous conditions and a useful starting-point for further progress.

Statistics were being piled up, research was being pursued, and the increasing staff of the central health department slowly developed "a scientific basis for the progress of sanitary law and administration."<sup>1</sup> Exact knowledge must precede effective legislation; this was fast being accumulated and progress quickened accordingly.

The Sanitary Act of 1866, placing the duty of providing for the proper inspection of their districts upon local

<sup>1</sup> Simon, "Sanitary Institutions," p. 287.



authorities, was saved, like the Act of 1848, by a visit of Asiatic cholera. And again in 1869-71 cholera, aided by fever and small-pox, helped the reformers to success in pushing the proposals of the Royal Commission which reported in 1871.

✓ The Report of this Commission disclosed an amazing complexity, lopsidedness, and inefficiency of both sanitary legislation and administration. The progressive and experimental character of sanitary legislation resulted in the constant enlargement and extension of existing Acts without any attempt at reconstruction or any regard to arrangement, and the consequence was that "the law was frequently unknown, or at best, difficult to understand." No less than six departments of the central Government acted in respect of public health, and it was "quite possible that on the same day inspectors from the different offices might visit a town for sanitary purposes without any cognisance of the presence of each other." "The confusion in the central Government had its parallel among the local authorities ; " in all country districts there is one authority for every privy and another for every pigstye ; but with regard to the privy, one authority is expected to prevent it being a nuisance and the other to require it to be put to rights if it be a nuisance." Three different authorities were in operation in some districts, and it was shown that " the sewer authority might provide hospitals, but it had no staff of medical officers to carry its powers into execution," whilst " the nuisance authority had a staff quite ready and daily at work, but it was not empowered to provide the accommodation." Despite the difficulties much progress had been made, and such places as Bristol, Croydon, and Merthyr Tydvil had achieved great reductions in their death rates by an effective use of their powers. On the other hand, the complexity of legislation and the overlapping of authorities, aided by ineffective central control, rendered the Sanitary Acts a dead letter in many places. At Epping, the sanitary condition of

which was very bad and the mortality greater than in any other part of Essex, a special drainage district was formed, but in order to defeat action the members of the Board resigned, "since which there has been neither committee nor inspector nor any sanitary officer in the whole district." And in other districts the adoption or enforcement of sanitary legislation was prevented by the efforts of the ratepayers. The wholesale evidence of the difficulty of securing the adoption of adoptive Acts and the exercise of powers when adopted led one witness to assert that the "consent of the people being necessary for the adoption of these Acts is a most flagrant fault in them," and that Parliament made a great mistake when it "receded from the general principle of the Act of 1848 that people should have no prescriptive right to be dirty." The Commission strongly recommended that sanitary legislation be revised and recast, that the law should be strengthened, the system of sanitary authorities simplified, and that every local authority should have a medical officer of health and an inspector of nuisances, towards whose salaries a grant in aid should be made by the central Government, and that the control of local authorities by the central department should be made more effective. The establishment of the Local Government Board resulted, and was rapidly followed by the Public Health Acts of 1872 and 1874 and the great consolidating Act of 1875. These Acts, together with those which consolidated the Food and Drugs Acts in 1875 and the Factory and Workshops Acts in 1878, laid the foundation of the present system of sanitary legislation and administration.

Since that decade few years have passed without legislation affecting public health. By the Local Government Acts of 1888 and 1894 and the London Government Act of 1899 sanitary areas have been simplified, authorities defined and reduced in number, and their powers have been to some extent co-ordinated, whilst at the same time the increasingly intimate relation between the local authority

and the central Government resulting from the latter's power of inspection, supervision, control, and advice has made for more efficient and equable administration ; and the effects are to be found in the gradual decline of the death rates—the negative sign of an improved public health.

## CHAPTER II.

### AREAS AND AUTHORITIES.

THE existing sanitary authorities and the areas over which they exercise jurisdiction are, with one exception, the creation of legislation during the last quarter of the nineteenth century. Borough councils form the exception, but even they exercise their sanitary powers as urban district councils. For the purposes of local government, apart from those relating to the relief of the poor, the country is mapped out into sixty-two administrative counties,<sup>1</sup> containing county boroughs,<sup>2</sup> wherein the county councils exercise no powers, and urban and rural districts<sup>3</sup>; within the latter areas are the subordinate districts of the parishes, the council or meeting of which has some slight sanitary powers.<sup>4</sup> In addition there are various special and joint authorities, such as port sanitary authorities and joint hospital or water boards. All these authorities are subject to a certain amount of control and supervision by departments of the central Government—chiefly by the Local Government Board—and their actions or inaction may become matters for review and decision by the various courts of law. Occupying an anomalous position are the boards of guardians, established by the Poor Law of 1834; they administer the Vaccination Acts and appoint vaccination officers and the registrars of births, deaths, and marriages, who, subject to the control of the Registrar-General, collect and provide the statistics by which the efficacy of sanitary administration is indicated and judged.

<sup>1</sup> Local Government Act, 1888.

<sup>2</sup> *Ibid.*, ss. 31 *et seq.*

<sup>3</sup> Local Government Act, 1894, ss. 21 *et seq.*

<sup>4</sup> *Ibid.*, ss. 1 *et seq.*

There are sixty-two county councils ; the discrepancy between the number of geographical and that of administrative counties being accounted for by the inclusion in the latter of the Ridings of Yorkshire (three), the Parts of Lincolnshire (three), the divisions of Sussex and Suffolk (two each), the Isle of Ely, the Soke of Peterborough, London, and the Isle of Wight. Each council consists of councillors elected for three years, and one-third as many aldermen, half of which are elected every third year for six years. Its sanitary powers are limited and do not extend into the areas of county boroughs ; they include the prevention of the pollution of rivers,<sup>1</sup> the making of bye-laws as if it were a borough council,<sup>2</sup> but which do not have effect within any borough, the appointment of analysts under the Food and Drugs and Fertilisers Acts, the administration of the Contagious Diseases (Animals) Acts, and orders made thereunder,<sup>3</sup> and the establishment of isolation hospitals for infectious disease under the Isolation Hospitals Act, 1893. Every county council must appoint a medical officer of health,<sup>4</sup> to whom the medical officer of health of each county district must forward a copy of his annual report upon the health of his district, and the county council may make representations to the Local Government Board where it appears that any local authority has neglected its duties under the Public Health and Housing Acts. The council must pay to every urban and rural sanitary authority in its district one-half of the salary of every medical officer of health and inspector of nuisances, whose qualifications, appointment, salary, and tenure of office are approved by the Local Government Board ; such payments are charged to the Exchequer Contribution Account. Many county councils now appoint sanitary inspectors, through whom

<sup>1</sup> Local Government Act, 1888, s. 14.

<sup>2</sup> *Ibid.*, s. 16.

<sup>3</sup> There are some exceptions to these powers in the case of boroughs with a population exceeding 10,000.

<sup>4</sup> Housing and Town Planning Act, 1909, s. 68.

they gain information enabling them to exert pressure upon the local authorities to secure a more efficient enforcement of the sanitary laws.

The councils of county boroughs exercise their sanitary powers in the dual capacity of county councils and urban district councils. Their constitution, determined by the Municipal Corporations Acts of 1835 and 1882, is similar to that of a county council and consists of councillors and aldermen, but their presiding officer has the title and dignity of mayor, whilst that of a county council is termed a chairman. There were at the census of 1911 seventy-five of these councils, but their number is constantly increasing, the additional dignity and powers of a county being obtainable, since the Act of 1888, by boroughs having a population in excess of 50,000, by means either of a provisional order granted by the Local Government Board or a private Act of Parliament.

The constitution of the councils of municipal boroughs, of which there were 249 at the census of 1911, is identical with that of the county borough councils. The distinction, for the purpose of sanitary administration, is to be found in the fact that whilst the latter are quite outside the jurisdiction of the county council, the former, invariably where the population is less than 10,000 and sometimes when it is more, does not administer the Acts dealing with contagious diseases of animals and the sale of food and drugs. As sanitary authorities these councils, like those of the county boroughs, act as and have all the powers of an urban district council, and they may, by means of private Acts, extend such powers as far as they desire and Parliament will permit.

Outside the boroughs the county is divided into urban and rural districts, differing generally, but not always, in density of population, the former being the denser. At the last census there were 812 urban districts with councils all the members of which are directly elected and presided over by a chairman. As is the case with all these authori-

ties, the number of members of urban district councils varies, but they are elected for three years, and, as a rule, one-third retire each year.<sup>1</sup> Except the powers reserved to the county council, an urban district council possesses, or may obtain, all the powers conferred by the Public Health and kindred Acts, and must appoint a medical officer of health and an inspector of nuisances for the purpose of their administration. In common with rural district councils, they have powers and duties which may be roughly enumerated under the following heads :—

- (1) Inspection and abatement of nuisances.
- (2) Drainage, sewerage and sewerage treatment, and refuse removal and disposal.
- (3) Regulation and inspection of common lodging-houses, dairies, cowsheds and milkshops, cellar dwellings, workshops and workplaces, laundries and bakehouses.
- (4) Inspection of food.
- (5) Provision of water supply.
- (6) Isolation of cases of infectious disease, disinfection, and provision of hospitals, mortuaries, cemeteries, and crematoria.
- (7) Regulation of new buildings, town planning, and provision of houses for the working classes.
- (8) Provision of open spaces.

Beyond these, urban sanitary authorities have powers in regard to :—

- (9) Regulation of slaughter-houses and offensive trades.
- (10) Street cleansing and scavenging.
- (11) Provision of baths and washhouses.

The members of rural district councils are elected for the parishes composing the district, and are also poor law guardians for the union in which their parish is situated<sup>2</sup>; otherwise the councils resemble those of urban districts,

<sup>1</sup> Local Government Act, 1894, s. 23.

<sup>2</sup> *Ibid.*, s. 24.

but their powers are not so great, since it is assumed that their sanitary problems are less urgent. These councils, of which there were 657 at the last census, must appoint a medical officer of health and one or more inspectors of nuisances, and may obtain by application to the Local Government Board all or any of the powers of an urban district council.<sup>1</sup>

The parish, which is "a place for which a separate poor rate is or can be made, or a separate overseer is or can be appointed," is the unit of local government, but only rural parishes are organised for the purpose. For each rural parish having over 300 inhabitants a council is elected at the parish meeting or by a poll if such is demanded. This power, if applied for, must be given by the county council to parishes having less than 300 but more than 100 inhabitants, and may be received by parishes with a population less than 100. The county councils and Local Government Board have wide powers of uniting, dividing, or altering parishes if such action is deemed desirable. Parishes without councils have a meeting at least twice a year, the chairman carrying out whatever administrative business is necessary; otherwise the meeting is usually held once a year, when a council of from five to fifteen members (the number is fixed by the county council) is elected. The parish council, which must meet at least four times every year, may utilise wells, springs, or streams within the parish and provide facilities for obtaining water therefrom, and may deal with any pond, pool, open ditch, or place containing, or used for the collection of, any matter likely to be prejudicial to health, by draining, cleansing, covering or otherwise.<sup>2</sup> It may complain or make representations to the medical officer of health of the rural district council as to unhealthy dwellings or obstructive buildings<sup>3</sup>; in common with the parish

<sup>1</sup> Local Government Act, 1894, s. 25.

<sup>2</sup> *Ibid.*, s. 8.

<sup>3</sup> *Ibid.*, s. 6. See also Housing of the Working Classes Act, 1890, ss. 31 and 38.



meeting, it may also complain to the Local Government Board of any failure of the rural district council to exercise their powers under Part II. or III. of the Housing of the Working Classes Act, 1890, or to the county council of any similar neglect under the latter part of this Act.<sup>1</sup> Continued neglect by the rural district council of these powers may result in their transfer to the county council, which is also empowered to provide or maintain sewers or water supply for the parish if satisfied that the complaint of the parish council that the rural district council are defaulting is justified.<sup>2</sup> The parish council may also have delegated to it by the rural district council any powers which may be delegated to a parochial committee under the powers conferred by the Public Health Acts.<sup>3</sup> The parish meeting has exclusive power of adopting the Baths and Washhouses Acts, 1846 to 1882, the Burial Acts, 1852 to 1885, and the Public Improvements Act, 1860, but as a rule the execution of the provisions of these Acts is left to the parish council.<sup>4</sup> The accounts of both the parish councils and meetings are audited by the district auditors of the Local Government Board, but for the year ending March 31st, 1913, there were 666 out of 7,229 parish councils and 5,262 out of 5,684 parish meetings which had no financial transactions and consequently no accounts for audit.<sup>5</sup>

The metropolitan sanitary authorities, with the exception of the unreformed Corporation of the central square mile known as the City, were created by the Local Government Act, 1888, and the London Government Act, 1899, and derive the nucleus of their powers from the Public Health (London) Act, 1891. The County Council controls an area of 121 square miles, with a population of four and

<sup>1</sup> Housing and Town Planning Act, 1909, ss. 10 and 12.

<sup>2</sup> Local Government Act, 1894, s. 16.

<sup>3</sup> *Ibid.*, s. 15, and Public Health Act, 1875, s. 202.

<sup>4</sup> Local Government Act, 1894, s. 7.

<sup>5</sup> Forty-second Annual Report of the Local Government Board, Part III., p. xcvi.

a half millions at the census of 1911, and is organised on the same lines as other county councils. The borough councils, of which there are twenty-eight, are constituted in a similar way to those of other boroughs, but their powers are not so extensive, and they are subject to considerable control both by the county council and the Local Government Board. The county council is the main drainage authority ; it regulates buildings, new and old ; enforces the Housing of the Working Classes Act, 1890, Parts I. and III. ; administers the Contagious Diseases (Animals) Acts ; regulates and enforces the law in respect of slaughter-houses, common lodging-houses, cowsheds, and offensive trades ; makes various bye-laws for sanitary purposes ; and appoints medical officers of health and sanitary inspectors to enforce and carry out the law. It is the appellate authority in various matters of dispute between the local sanitary authority (the borough councils) and private persons, and has powers of compelling the borough councils to carry out various duties placed upon them by the Public Health (London) Act, 1891. Outside the powers thus specially reserved to the county council the borough councils have sanitary powers which approximate closely to those of a provincial urban district council. They must appoint medical officers of health and sanitary inspectors, and may appoint health visitors for the purpose of carrying out the duties placed upon them. Their administrative powers and methods differ little from those of the larger municipal authorities, with the notable exceptions that the water supply of the county area together with a large extra-metropolitan area is provided by the Metropolitan Water Board, created in 1902, and that the Metropolitan Asylums Board provides hospital accommodation and treatment for cases of infectious disease.

Port sanitary authorities are constituted by the Local Government Board either by an order which does not require the sanction of Parliament,<sup>1</sup> or, in cases where

<sup>1</sup> Public Health (Ships, &c.) Act, 1885, s. 3.

objection is made by a riparian authority required to contribute to the expenses of the port, by a provisional order.<sup>1</sup> The order may assign "any powers, rights, duties, capacities, liabilities, and obligations under the Act and under the Infectious Diseases Prevention Act, 1890, to such authority,"<sup>2</sup> which may be either a single riparian authority or a combination of such. Within the limits of the port, which are defined by the law relating to the customs of the United Kingdom, the port sanitary authority may, with the sanction of the Local Government Board, delegate to any riparian authority within or bordering on their district the exercise of any of its powers. There are sixty port sanitary authorities, including the Corporation of the City of London, which is the authority for the Port of London.

✓In addition to the sanitary authorities already dealt with, there are various joint authorities constituted for the special purpose of exercising powers or providing services of benefit to the inhabitants of two or more contiguous districts.<sup>3</sup> Two of the most important of these are the Metropolitan Asylums Board and the Metropolitan Water Board above mentioned. The former is composed of representatives of the London boards of guardians and of persons nominated by the Local Government Board; the latter of representatives of the local authorities in the various areas served by it. Similar authorities have been formed in various parts of the country for like purposes, for the provision of isolation hospitals under the Isolation Hospitals Acts of 1893 and 1901, as well as for the enforcement of the Rivers Pollution and Contagious Diseases (Animals) Acts. One of the most noteworthy of these joint boards is the Derwent Valley Water Board, constituted under an Act of 1899, of representatives from the corporations of Derby, Leicester, Nottingham and

<sup>1</sup> Public Health Act, 1875, ss. 287 to 292.

<sup>2</sup> Public Health (Ports) Act, 1896.

<sup>3</sup> Twenty-nine out of sixty port sanitary authorities are joint boards.

Sheffield, and the Derbyshire County Council. During the year ending March 31st, 1913, the district auditors of the Local Government Board audited the accounts of 112 joint boards for sanitary purposes and 65 isolation hospital committees under the Isolation Hospitals Acts of 1893 and 1901.<sup>1</sup> The formation of such boards has the advantage of securing efficient administration without unduly burdening the contributory authorities, which by themselves would be unequal to the financial strain.

<sup>1</sup> Forty-second Annual Report of the Local Government Board, Part III., p. xcvi.

## CHAPTER III.

### SOURCES OF POWERS.

✓ FOR nearly a century Parliament has been engaged in the task of putting limitations to and restrictions upon that liberty of the individual which at the end of the eighteenth century was generally held to be the keystone of national greatness. Hard facts have proved too much for theories which assumed man to be merely a money-making machine; material wealth is now realised to be of less primary importance than public health, and so to conserve and increase the latter the State has had, perforce, to curtail individual opportunities of amassing the former. ✓ The process has been slow, necessarily; statesmen had neither precedents nor experience of the problems that the industrial revolution suddenly made urgent. ✓ Reformers had to feel their way, inquiring, legislating in a tentative, temporary fashion, creating and re-creating authorities and extending powers—too often permissive—to deal with special conditions as they presented themselves in pressing fashion. But they have succeeded in framing a body of laws, evolving a system of sanitary institutions through and by which the laws are administered and enforced, training an army of advisory and executive officials, and developing a technique for the purpose of “securing that the fit are born, and preventing the fit from becoming unfit.”

✓ Sanitary authorities owe their existence and their powers to Parliament; and they may be destroyed or dispossessed of their powers in the same way. They are subordinate authorities. “The sovereignty of Parliament is (from a legal point of view) the dominant charac-

teristic of our political institutions.”<sup>1</sup> In a lesser degree, as will be seen later, they are also subject to the superior power of various departments of the central Government, *i.e.*, the Local Government Board, Home Office, and Board of Agriculture ; and finally their activities and, in certain cases, inaction are always liable to review by the ordinary law courts of the land and subject to their decisions as to law, but not always as to fact.

The functions of local authorities are threefold :— (1) administrative—enforcing the law ; (2) executive—doing things as required or permitted by the law ; and (3) legislative—making laws such as bye-laws, regulations, and orders as required or allowed by the law. It must, however, be noted that, whilst ultimately the source of their powers to perform these functions is statute law, it frequently happens that they are directly derived from subordinate authorities or even, as in the case of bye-laws, regulations and orders, from their own action. A peculiar example of this indirect method is to be found in the Contagious Diseases (Animals) Acts of 1878 and 1886, by which the Local Government Board is empowered to make orders for, among other things, authorising a local authority to make regulations enabling and empowering them and their officers to do certain things—*i.e.*, inspect the cattle and premises and prescribe conditions for the health of the cattle and the cleanliness of the premises and utensils.<sup>2</sup>

Statute law may be classified in at least two ways which are of importance. In the first place, an Act may be a public or a private Act, one difference being that while the former is, or may become, of general application, the latter only has effect within the area of the authority which promoted it. The distinction is thus described by Sir Courtenay Ilbert :—

“ A public Bill is introduced as a measure of public policy in which the whole community is interested, and originates on

<sup>1</sup> See Dicey, “ Law and Custom of the Constitution.”

<sup>2</sup> Contagious Diseases (Animals) Acts, 1878, s. 34 ; 1886, s. 9 ; Dairies, Cowsheds, and Milkshops Orders, 1885 and 1886.

the motion of some member of the House in which the Bill is introduced. A private Bill is a measure for the interest of some person or class of persons, whether an individual, a corporation, or the inhabitants of a county, town, parish or other locality, and originates on the petition of the person or persons interested. The object of a private Bill is, in fact, to obtain a *privilegium*—that is to say, an exception from the general law or a provision for something which cannot be obtained by means of the general law, whether that general law is contained in a statute or is common law.”<sup>1</sup>

But a very important difference is to be found in the methods by which they are passed through the Legislature, methods which the local health administrator must thoroughly realise if he would successfully influence the provisions of the one or secure the passing of the other. Secondly, the Act, if public, may be either general or adoptive, a resolution of the authority, passed in the prescribed way, being necessary before one of the latter class becomes applicable within its area. Instances of the former are the Public Health Act, 1875, and the Factory and Workshop Act, 1901; of the latter, the Baths and Washhouses Acts, and Public Health Acts Amendment Acts, 1891 and 1907. The Infectious Diseases (Notification) Act, 1889, was adoptive until 1899, when it was made general, Part III. of the Housing of the Working Classes Act of 1890 being similarly treated in 1909,<sup>2</sup> whilst the Notification of Births Act, 1907, becomes general on September 1st of this year.<sup>3</sup> Powers which may be obtained by “adoption” must not be confused with those which are “permissive,” of which there are far too many contained in the mass of legislation with which sanitary authorities have to deal. The latter are to be found scattered plentifully among the clauses of sanitary statutes—general and adoptive—and are characterised by the use of the phrase “the local authority may,” &c., instead of “the local authority shall,” &c. In some cases

<sup>1</sup> Ilbert, “Legislative Methods and Forms,” p. 28.

<sup>2</sup> Housing and Town Planning Act, 1909, s. 1.

<sup>3</sup> Notification of Births (Extension) Act, 1915.

the Local Government Board has the power to issue orders converting permissive into mandatory powers, the case of section 42 of the Public Health Act, 1875, relating to the removal of house refuse and the cleansing of certain sanitary conveniences, being one of the most important instances.

As indicated above, both authorities and officials are deeply concerned with legislative proposals affecting the public health. They may be, and many of them undoubtedly are, consulted before such a Bill is framed, but during its course through Parliament all have opportunities of bringing their views before individual statesmen and often, by means of the local member, before Parliament itself; this occurs when the Bill has been printed after the first reading, which, unless the Bill is very controversial, is agreed to with little debate. If, after debate, the second reading is carried, the Bill goes to a select committee if it appears desirable that its details should be closely examined, in which case evidence may be taken thereon, or it is referred to one of the grand committees or to a committee of the whole House, a similar course being pursued by a Bill after report by a select committee. It is next reported to the House, and, if any amendment has been made in committee, it is considered in detail; otherwise the third reading is taken and the Bill goes to the House of Lords. In the Upper House it at once enters upon the second reading, and after passing through the committee of the whole House is usually referred to a standing committee and on through a report stage to the third reading, finally going to the Crown for consent. Of course, the procedure varies somewhat when the Bill originates in the House of Lords, and in case of insoluble differences between the two Houses the Parliament Act may now be utilised to secure the will of the House of Commons.

It is thus seen that sanitary authorities have every opportunity of bringing the wisdom gained by experience to the help of the Legislature. That this opportunity is



taken full advantage of is amply proved by a glance at the journals and periodicals dealing with local government and the professional interests of its officials. Immediately the provisions of a Bill affecting local government are made known they are at once discussed and criticised by experts—professional and lay—at general and special conferences of associations of authorities and officers. From them a stream of resolutions, often emphasised and supported by deputations, flow in to the Minister in charge of the Bill, who cannot, if he wishes the Bill to work, afford to neglect the weighty criticism and advice thus gratuitously offered.

The procedure as regards private Bills is more complicated, and, together with "the growing complexity of the English administrative system and the number and importance of legal or semi-legal questions which arise in the course of central and local administration by public authorities," has developed "a class of lawyers who devote themselves specially to this branch of learning or to some one or more of its ramifications . . . ; among these are to be found first-rate authorities on such topics as municipal, sanitary or highway law."<sup>1</sup> Private Bill legislation has been of the greatest value in the past,<sup>2</sup> but local authorities desirous of extending their powers as experience shows to be necessary complain very bitterly that it is costly, clumsy, and slow. The fees payable under the standing orders of each House are high, the fees of parliamentary counsel and agents and, often, expert witnesses are still higher, and local witnesses must be brought up to Westminster and frequently kept there for a considerable time.<sup>3</sup> Fortunately the passing of public general and adoptive Acts and the recent extension of the device of provisional orders have superseded much of the necessity for local private legislation, the tendency of

<sup>1</sup> Ilbert, "Legislative Methods and Forms," p. 238.

<sup>2</sup> See Clifford, "History of Private Bill Legislation."

<sup>3</sup> Ilbert, "Parliament," p. 87; Ashley, "Local Government," pp. 175-6.

which is to decrease in volume and importance.<sup>1</sup> The standing orders of both Houses of Parliament define very precisely the manner and time of making application for new powers by local authorities. The Bills are introduced and read a second time and then go to the Local Legislation Committee, before whom applicants and opponents are heard, counsel engaged, and witnesses called.

The Local Legislation Committee was first appointed in 1909, when it replaced the Committee on Police and Sanitary Regulations, which originated in 1882. It consists of fifteen members appointed at the beginning of each session by a special order of the House of Commons. It sits throughout the session and deals with all Bills of the type implied by its title, whether opposed or unopposed, hearing counsel and witnesses on behalf of the promoters and any opponents, and receiving the assistance of experienced officials of the Local Government Board and the Home Office who attend its proceedings. In its deliberations and decisions it adheres to the principles laid down by its predecessor in 1884, "that no local powers should be given which are in excess of the general law unless strong local reasons exist for such powers, and that no statutory enactments should be permitted for purposes which can be effected by bye-laws."

The report of this committee, if adverse, declares that "the preamble is not proved"; in any case it is usually final. The procedure in the House of Lords is practically the same. In this way many of the largest authorities have secured powers far wider than those given by general statute law, and have thus been enabled to maintain their administration at a high standard of efficiency and abreast of the increasing demands of modern sanitary science.<sup>2</sup>

Another way by which local authorities may obtain powers which used to require private Acts is by provisional

<sup>1</sup> Ilbert, "Parliament," p. 87.

<sup>2</sup> See F. Noel Keen, "Local Legislation, 1909—1911."

order, for which application must be made in the prescribed way to the appropriate department of the central Government. Before granting the order the department sends down an inspector to hold a public local inquiry into the matter of the application and to report thereon. If the report is favourable, the provisional order conferring the desired powers is drawn up by the Local Government Board and submitted, singly or with others, to Parliament in the next session in a Provisional Orders (Confirmation) Bill, which usually passes without opposition, but which may be opposed like other private Bills. During the year ending March 31st, 1913, the Board issued ninety-three orders under the Public Health Act, 1875, none of which appear to have been opposed.<sup>1</sup>

The Local Government Board has many powers which it may exercise by provisional order. One of these, which has been widely used, is the power to create port sanitary authorities<sup>2</sup>; whilst a second, of which practically no use has been made, is the power to transfer, subject to approval by the department and authorities affected and to confirmation by Parliament, certain powers, duties, and liabilities of departments of the central Government to the councils of counties or county boroughs.<sup>3</sup>

Statesmen and officials engaged in drafting Bills to bring before Parliament endeavour to keep them as simple and clear as possible. This is an extremely difficult matter; Parliament cannot be expected to legislate for every detail of administration with which the responsible authorities and officials will be faced.

“The increasing vigilance and intelligence of members [of Parliament] and their constituents, which has increased the difficulty of passing legislative measures through Parliament, has rendered necessary the adoption of various expedients for shortening and simplifying their form, expedients of which

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. cxiv.

<sup>2</sup> Public Health Act, 1875, ss. 287 *et seq.*; see also Chapter II.

<sup>3</sup> Local Government Act, 1888, s. 10.

the delegation of legislative powers is among the most legitimate."<sup>1</sup> "The tendency of modern legislation is to place in the body of an Act merely a few broad, general rules or statements of principles, and to relegate all details either to schedules or statutory orders."<sup>2</sup>

Consequently the general provisions of many Acts are supplemented by the delegation of powers, under safeguards,<sup>3</sup> to executive authorities, central or local, to frame and issue orders and regulations which amplify the statute law and make it applicable to the facts of social life. The high-water mark of this tendency was reached in the National Insurance Act of 1911.

In this way also the central departments are frequently enabled to bring pressure to bear upon reluctant authorities, especially when, as in the case of the appointment of medical officers and inspectors of nuisances of urban and rural districts and of education authorities carrying out medical inspection of school children, they have the power of sanctioning or making "grants in aid." By such orders the Local Government Board, who issued 633 during the year ending March 31st, 1913,<sup>4</sup> substituted the provisions of section 5 of the Infectious Diseases (Prevention) Act, 1890, for those of section 120 of the Public Health Act, 1875, as applying to ships,<sup>5</sup> and regulate the qualifications, appointment, and tenure of office of medical officers of health, and inspectors of nuisances<sup>6</sup> and of health visitors.<sup>7</sup> Similarly the Board of Agriculture, empowered by the Destructive Insects and Pests Acts, 1877 and 1907, has issued orders giving local authorities powers and

<sup>1</sup> Ilbert, "Legislative Methods and Forms," p. 40.

<sup>2</sup> *Ibid.*, p. 266.

<sup>3</sup> Rules Publication Act, 1893, and special rules in particular Acts—*e.g.*, Public Health (Regulations as to Food) Act, 1907, s. 2.

<sup>4</sup> Forty-second Report of the Local Government Board, Part III., pp. cxiii. and 218.

<sup>5</sup> Port Sanitary Authorities (Assignment of Powers) Order, 1912.

<sup>6</sup> Sanitary Officers (Outside London) Order, 1910.

<sup>7</sup> Health Visitors (London) Order, 1909.

defining their procedure to prevent the spread of the American gooseberry mildew,<sup>1</sup> and under powers conferred by the Diseases of Animals Acts, 1894—1911, made provision for the examination of cattle and compensation for their owners in certain cases when, upon being slaughtered, the animal is found to be suffering from tuberculosis;<sup>2</sup> and the Home Secretary is enabled to make orders defining, among other things, the classes of homework to which the provisions of the Factory and Workshop Act, 1901, regarding the sanitary conditions under which the work is done, apply.<sup>3</sup> In a similar way extended powers are given to local authorities, or their activities are defined, by regulations issued by the central departments of Government. Cases of this class of departmental legislation are the inclusion of tuberculosis as a notifiable disease,<sup>4</sup> the determination of the objects and records of inspection of dwelling-houses,<sup>5</sup> and the definition of standards of purity for milk and cream<sup>6</sup> and of rag flock,<sup>7</sup> all made by the Local Government Board, and regulations prescribing procedure in the making of "closing orders" under the Shops Act, 1912, made by the Home Secretary.

The distinction between orders and regulations of a department of the central Government is difficult to determine, and appears to be only verbal—a matter of title—since regulations are prescribed "by this order," and they are included in the list of "orders issued" by the Local Government Board in the annual report.<sup>8</sup>

The sources of a sanitary authority's powers are not,

<sup>1</sup> American Gooseberry Mildew (Fruit) Orders, 1912 to 1915.

<sup>2</sup> Tuberculosis Order, 1913.

<sup>3</sup> Section 107.

<sup>4</sup> Tuberculosis Regulations, 1912, made under the Public Health Act, 1875, s. 130.

<sup>5</sup> Housing (Inspection of Dwellings) Regulations, 1910, made under the Housing and Town Planning Act, 1909, s. 17.

<sup>6</sup> Public Health (Milk and Cream) Regulations, 1912.

<sup>7</sup> Rag Flock Act and Regulations, 1912.

<sup>8</sup> Forty-second Report of the Local Government Board, Part III., p. 218.

however, exhausted by those already enumerated. In certain cases the authority is empowered, subject to limitations, to define its own powers and prescribe its own requirements by means of bye-laws, regulations, and orders, which differ rather in the procedure by which they are enacted than in their force. Urban sanitary authorities are invested with more extensive powers for the making of bye-laws than rural sanitary authorities, but the latter may usually secure them by applying to the Local Government Board.<sup>1</sup> Regulations, unlike bye-laws, do not, unless enforceable by a penalty, require the sanction of the Local Government Board, and may be made for dairies, cowsheds, and milkshops, for prescribing the mode of connecting drains and sewers,<sup>2</sup> and for removing any person suffering from infectious disease from a ship to a hospital and keeping him therein,<sup>3</sup> among other purposes. The consent of the Local Government Board is required, however, for orders made by a local authority to extend the application of the Infectious Diseases (Notification) Act, 1889, to other diseases,<sup>4</sup> and the sanction of the Home Secretary is required for certain orders made by a local authority under the Shops Act, 1912.<sup>5</sup>

The legislation, statutory and derivative, which creates the sanitary authorities and endows them with duties, responsibilities, and powers is formidable in amount and complex in character. Act after Act is passed, orders and regulations are issued in bewildering profusion, and still the basis of the whole is an Act passed forty years ago. A consolidation and codification of sanitary law is urgently needed; at present the public are helplessly ignorant, authorities are bewildered, and lawyers reap their harvest accordingly.

<sup>1</sup> See Forty-second Report of the Local Government Board, Part III., p. cvi.

<sup>2</sup> Public Health Act, 1875, s. 21.

<sup>3</sup> *Ibid.*, s. 125.

<sup>4</sup> Section 7.

<sup>5</sup> Section 5.

## THE CHIEF ORDERS AND REGULATIONS AFFECTING PUBLIC HEALTH ISSUED DURING RECENT YEARS.

1907.

The Home Work Order, May 23rd	Home Office.
Order approving Regulations of the Central Midwives Board, April 14th.	Privy Council.

1908.

The Public Health (Unsound Food) Regulations, September 12th.	Local Government Board.
Public Health (Tuberculosis) Regulations	Do.

1910.

The Animals (Notification of Diseases) Order.	Board of Agriculture.
Town Planning Procedure Regulations	Local Government Board.
Housing (Inspection of District) Regulations.	Do.
Sanitary Officers (Outside London) Order	Do.
Sanitary Officers (Ports) Order	Do.
County Medical Officers of Health (Duties) Order.	Do.
Diphtheria Anti-toxin Orders (2)	Do.
Plague Regulations	Do.

1911.

Public Health (Tuberculosis) Regulations.	Do.
Public Health (Tuberculosis in Hospitals) Regulations.	Do.
Housing, &c. (Form of Compulsory Purchase Order, &c.), Order.	Do.

1912.

Wart Disease of Potato Order	Board of Agriculture.
American Gooseberry Mildew (Fruit) Order.	Do.
The Sale of Milk Regulations	Do.
Rag Flock Regulations	Local Government Board.
Public Health (Milk and Cream) Regulations.	Do.

Public Health (Cerebro-spinal Fever and Acute Poliomyelitis) Regulations.	Local Government Board.
Port Sanitary Authorities (Assignment of Powers) Order.	Do.
Public Health (Tuberculosis) Regulations	Do.
Regulations under the Shops Act, 1912	Home Office.

1913.

Tuberculosis Order . . . .	Board of Agriculture.
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1914.

Public Health (Ophthalmia Neonatorum) Regulations.	Local Government Board.
The Wart Disease of Potatoes (Infected Areas) Order.	Board of Agriculture.



## CHAPTER IV.

### LOCAL LEGISLATIVE PROCEDURE.

THE ever-increasing volume of public sanitary law endows sanitary authorities with wide powers for dealing with conditions inimical to public health. Some of these powers are given to urban authorities only, others are of general application, but many of both (too many in the opinion of most sanitarians) are permissive—the local authority may or may not exercise them ; it has an option which is a direct incentive to jerry-builders, slum owners, and others with interests opposed to the public weal to obtain control of or influence upon the various councils. These powers, together with those conferred by orders and regulations of the central Government, are the irreducible minimum of the legislative equipment of sanitary authorities ; they exist without effort on their part.

Sanitary authorities have, however, the right and opportunity of adding to or adapting these powers to suit the varying needs of their localities by means of adoptive and private Acts, provisional orders, bye-laws, regulations, and orders. Of these the last three are the most general and imperative forms of local legislation ; adaptability and the little effort required on the part of the authority to secure their powers are their greatest merits. On the other hand, by private Acts and provisional orders extended powers may be obtained ; but procedure is made more cumbersome and expensive, so putting a premium on progress, since it is only those authorities who desire to move with the advance of sanitary science that will thus seek to increase their powers. Adoptive Acts, by leaving sanitary authorities free to accept or decline the powers given therein, have the advantage of silencing the voices of opponents in and out of Parliament, since no

authority need adopt them, although the best will do so. After experience has demonstrated their utility and time has lulled opposition they are frequently made compulsory.

In the exercise of these functions, consciously and voluntarily clothing themselves with increased powers and duties, local authorities act with varying degrees of legislative capacity, ranging from the simple resolution needed to adopt an " adoptive " Act to the difficult and technical work of framing and promoting a private Bill. The part played by the officers of the local authority in this work is an onerous and important one. Upon them devolves the duty of advising their authority as to the need for and direction of such action ; they must be prepared to support their advice by facts and figures, and, when it is accepted, they keenly scrutinise, where they do not draft, the provisions to make certain that they fulfil the desired purpose. And from beginning to end they will find their authority bound down to certain forms of procedure, a breach of which may entail administrative difficulties, legal failures, and, perhaps, financial loss.

The reason for and the justification of the elaborate procedure and nice precision of method and form of subordinate legislation has been well expressed by an eminent and experienced lawyer and legislator. He states that—

" Englishmen have a deep-seated distrust of official discretion, a deep-seated scepticism about bureaucratic wisdom. The ordinary Englishman, as represented by the average member of Parliament, would find much difficulty in assenting to the proposition of an eminent author that ' the substance, no less than the form, of the law would, it is probable, be a good deal improved if the executive Government of England could, like that of France, by means of decrees, ordinances or proclamations having the force of law, work out the detailed application of the general principles embodied in the Acts of the Legislature.' If his liberty of action is to be subjected to restraint, he prefers that the restraint should be imposed by laws which have been made after public discussion in a representative assembly." <sup>1</sup>

<sup>1</sup> Ilbert, " Legislative Methods and Forms," p. 39.

Parliament does, as a matter of fact, leave much matter for other authorities to legislate upon, but it defines the subject, prescribes the procedure, and keeps in its own hands the ultimate power of limiting or cancelling such efforts.

The adoptive Acts affecting public health are not numerous, but the procedure to be followed varies in practically every case. The Baths and Washhouses Acts, 1846 to 1896, may be adopted by borough councils,<sup>1</sup> urban district councils,<sup>2</sup> and parish councils,<sup>3</sup> the only restriction being the necessity of a two-thirds majority of the parish meeting or of voters at a parochial poll.<sup>4</sup> The Infectious Diseases (Prevention) Act, 1890, and the Public Health Acts Amendment Act, 1891, require special notice of the meeting of the authority and intention to apply for an order to be given to each member, but the former requires fourteen days' notice,<sup>5</sup> while the latter specifies one calendar month<sup>6</sup>; on the other hand, the Public Health Acts Amendment Act, 1907, does not require such notice,<sup>7</sup> but the month's special notice was required by the schedule of the Notification of Births Act passed in the same year. The notice must be given in the usual way or otherwise signed by the clerk and forwarded by hand or post to the member's usual or last known place of abode. In each case the resolution of the council must be published by advertisement in newspapers circulating in the district, but the Infectious Diseases (Prevention) Act also requires publication by handbills, while the Public Health Acts Amendment Act, 1891, leaves out handbills but specifies that notices must be fixed on the principal doors of every church and chapel in the district. This procedure complied

<sup>1</sup> Municipal Corporations Act, 1882, s. 242.

<sup>2</sup> Public Health Act, 1875, s. 10.

<sup>3</sup> Local Government Act, 1894, s. 7.

<sup>4</sup> Baths and Washhouses Act, 1846, s. 5.

<sup>5</sup> Infectious Diseases (Prevention) Act, 1890, s. 3.

<sup>6</sup> Public Health Acts Amendment Act, 1891, s. 3.

<sup>7</sup> Public Health Acts Amendment Act, 1907, s. 3.

with, application may be made where required<sup>1</sup> to the Local Government Board for an order directing that the Act or parts adopted are in force, but this does not come into effect until a month has elapsed from the publication of the council's resolution, a period reduced to a fortnight by the Public Health Acts Amendment Act, 1907. A peculiarity about the Notification of Births Act, 1907, is that it may be adopted by the council of a county district or by the county council for the whole county or any county district, but in either case the Local Government Board may, upon application by the county council, make the other council the authority.<sup>2</sup> Up to March 31st, 1913, 741 urban and 339 rural district councils had adopted the whole or part of the Infectious Diseases (Prevention) Act, 1890, and 989 urban and 402 rural district councils had adopted the whole or part of the Public Health Acts Amendment Act, 1890,<sup>3</sup> and the Notification of Births Act, 1907, had been put into force in 29 metropolitan boroughs, 62 county boroughs, 78 non-county boroughs, and 140 urban and 75 rural districts.<sup>4</sup> During the year ending on the above date the Local Government Board issued 112 orders declaring various provisions of the Public Health Acts Amendment Act, 1907, to be in force in 25 metropolitan boroughs, 63 urban districts, and 23 rural districts.<sup>5</sup>

“The object of a private Bill is, not to alter the general law of the country, but to alter the law relating to some particular locality or to confer rights on or relieve from liability some particular person or persons.”<sup>6</sup> Such powers are in excess and extension of the powers given

<sup>1</sup> Public Health Acts Amendment Act, 1907, s. 3.

<sup>2</sup> Section 2. By the Notification of Births (Extension) Act, 1915, the provisions of this Act have now been extended to all districts in which it has not been adopted.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. lxxvii.

<sup>4</sup> *Ibid.*, p. liv.

<sup>5</sup> *Ibid.*, p. cxiii.

<sup>6</sup> Ilbert, “Parliament,” p. 85.

directly or indirectly by public Act—general or adoptive—or which may be obtained by bye-laws, regulations, or orders. The possession and exercise of such powers by the larger sanitary authorities is of great value to the whole community; these districts are the laboratories where the efficacy of fresh ideas and proposals is put to the test of experience; and if successful they are afterwards secured in like way by other authorities or placed at the disposal of all by a public Act. Their origin and utility is clearly stated by a member of the Local Legislative Committee of the House of Commons, who writes:—

“Some councillor, town clerk, borough surveyor or medical officer of health is impressed with the recurrence of a practical difficulty which he meets with in the administrative work of his authority, or with the existence of some danger to the community which he has not sufficient power to control. He evolves an idea for amending the law so as to meet the difficulty or give him the required power. He could not influence Parliament to adopt this idea for the whole country by alteration of the general law, but he can and does persuade the councillors of his own town that the idea is good and ought to be put into operation for that town. Thus it becomes the subject of a clause in the next private Bill the council are promoting, and Parliament is persuaded to allow the new power to be tried within these narrow limits, although a general public Bill for a similar purpose might have no chance of passing. . . . Many important provisions of our general sanitary and local government law have found their origin in a clause tentatively allowed in a private improvement Bill promoted by the corporation of some provincial town.”<sup>1</sup>

County councils<sup>2</sup> and borough and urban district councils<sup>3</sup> are the authorities permitted to indulge in the expensive luxury of promoting private Bills, the purposes of which are largely determined by the recommendations and advice of the chief officers.

The procedure is lengthy and complicated. The council,

<sup>1</sup> Sir C. N. Nicholson, Bart., M.P., in introduction (p. ix.) to “Local Legislation, 1909—1911,” by F. Noel Keen.

<sup>2</sup> County Councils (Bills in Parliament) Act, 1903.

<sup>3</sup> Borough Funds Acts, 1872 and 1903.

at a meeting called by ordinary notice and special advertisement ten days beforehand, must pass a resolution, by an absolute majority, affirming the desirability of promoting the Bill. The resolution must be published within seven days of the deposit of the Bill in either House of Parliament, and the approval of the Local Government Board, who may direct a local inquiry, obtained. The Bill is then deposited at the Private Bill Office in form and manner, at time and with documents and data, as specified by the standing orders of the House. Not earlier than fourteen days afterwards a special meeting of the council must confirm, by an absolute majority, the propriety of promotion, and then a public meeting of electors, called by two weekly advertisements not later than twenty-eight days from the date of the deposit of the Bill, may approve or disapprove of the whole or part of it. At this meeting the Bill must be explained by the chairman or by a member or officer of the promoting council, and a single or a series of separate resolutions covering the Bill must be voted upon, the decision being final unless a poll is demanded by the prescribed number of electors or, in case of defeat at the meeting, by the council itself. Upon a written requisition for a poll by 100 or one-twentieth of the electors, whichever is least, the council must authorise a poll, and the defeated parts, or perhaps the whole, are withdrawn by the council upon receiving a report of the result. The towns meeting and poll of the electors is an antiquated and somewhat ridiculous relic of the time when councils were not democratically elected authorities; they tend to be exploited by threatened interests or short-sighted economists, and often render nugatory much time and labour of the members and officers of the authorities promoting Bills which are sacrificed because they contain one or two clauses to which opposition is raised.

As may be seen from the directions issued by the Local Legislative Committee to parliamentary agents, the information which must be sent together with copies of

the Bill to every department of the Government concerned, as well as to the Clerk of the Parliaments and the Private Bill Office, not later than November 30th, is very comprehensive, and includes :—

(1) Statistics.

- (a) Population at last two census and an estimate of the present population ;
- (b) Area ;
- (c) Rateable and assessable values for last three years ;
- (d) All rates made in the district during the last three years, giving rate in the £ in each case ;
- (e) Amount produced by 1*d.* rate in the £ ;
- (f) Full particulars of existing loans, amounts borrowed, repaid and outstanding, periods allowed for repayment, margin of borrowing powers under the Public Health Acts, and date of authorisation and actual borrowing ;
- (g) Particulars as to permissive Acts adopted by the local authority, and a statement whether any powers have been sought under the Public Health Acts Amendment Act, 1907, and, if so, with what result.

(2) In case of a municipal corporation, the last published abstract of accounts.

(3) Staff of various departments of the local authority, showing—

- (a) Each officer, with his title, duties, salary, and stating whether engaged for whole or part time and whether certificated or not ;
- (b) Particulars of any post, paid or unpaid, held by an officer, whether under the local authority or otherwise.

The Committee also desire to be furnished with a “ Precedent Bill ” showing in red ink the authority (if any) for the particular clauses in the Bill, and they state that with regard to sanitary clauses the medical officer of

health of the authority should always be in attendance and prepared to give information as to the sanitary condition and administration of the district, and should supply a copy of his last annual report.

The proceedings in Parliament have been already described<sup>1</sup>; it is before the Local Legislation Committee that the great struggle, in cases of opposition, takes place. The council's officers, who have advised the insertion of various provisions or recommended application for various powers, and have commented upon and criticised the draft scheme prepared by the parliamentary agents, are now called upon to support by facts, statistics, and other data the proposals for which they are responsible, and to provide evidence rebutting the considerations urged by the opponents of the measure. When the Bill is passed the powers are added within their sphere of application to those already possessed through public and private legislation, and give encouragement to and a precedent for other local authorities seeking similar advantages. The Local Government Board under powers conferred on it by the Borough Funds Acts of 1872 and 1903, approved resolutions of 29 borough and urban district councils and one metropolitan borough council to promote 24 local Bills in Parliament in the session of 1912, and of 46 borough and urban district councils to oppose 32 such Bills, and during the same session the Board reported to Parliament upon 51 private Bills, 26 promoted by local authorities and 25 by companies or other authorities.<sup>2</sup>

For reasons already indicated the tendency of private Bill legislation is to decrease in quantity and importance.<sup>3</sup> Provisions obtained by particular authorities are inserted in public Acts and so made available to all; the Public Health Acts Amendment Act of 1907 is an excellent instance. But many things can now be obtained expedi-

<sup>1</sup> See Chapter III.

<sup>2</sup> Forty-second Report of the Local Government Board, Part III., p. ci.

<sup>3</sup> *Ante*, pp. 25-6.



tiously and cheaply by means of provisional orders. These are orders containing provisions similar to those inserted in a private Bill, made by some department of the Government, the responsible Minister of which afterwards introduces into Parliament a Bill to confirm the order or a group of such orders. They are seldom opposed, but if opposition takes place the procedure from the second reading follows that prescribed for a private Bill and entails similar expense during the committee stage.

Provisional orders may be made by the Local Government Board, without petition from or consent by the sanitary authorities affected, for the devolution of powers, duties, and liabilities of departments of the central Government upon county councils,<sup>1</sup> and upon the petition of local authorities for the purpose of the compulsory acquisition of land,<sup>2</sup> the alteration of powers conferred by previous provisional orders,<sup>3</sup> and for the alteration or repeal of local Acts.<sup>4</sup> During the year ending March 31st, 1913, the Local Government Board issued ninety-three provisional orders under the Public Health Act, 1875,<sup>5</sup> and twenty-three similar orders for the repeal, alteration, and amendment of local Acts and Provisional Orders (Confirmation) Acts.<sup>6</sup>

The local procedure is laid down in sections 297 and 298 of the Public Health Act, 1875, while the parliamentary procedure is regulated by the standing orders of both Houses. Public notice of the purport of the provisional order must be given by advertisement in two successive weeks<sup>7</sup> in the same local paper in September, October, or

<sup>1</sup> Local Government Act, 1888, s. 10.

<sup>2</sup> Public Health Act, 1875, s. 176; Isolation Hospitals Act, 1893, s. 11.

<sup>3</sup> Public Health Act, 1875, s. 297.

<sup>4</sup> *Ibid.*, s. 303.

<sup>5</sup> Forty-second Report of the Local Government Board, Part III., p. cxiii.

<sup>6</sup> *Ibid.*, p. cii.

<sup>7</sup> Three successive weeks under the Public Health Act, 1875, s. 170, dealing with compulsory purchase of land.

November, following which the petition, accompanied by any necessary maps, plans, documents, and statistical and financial data, as well as proof in the required form that the proper procedure has been complied with, is sent to the Local Government Board, not later than October 31st, November 30th, or December 18th. Duplicates must also be sent to the Clerk of the Parliaments and the Private Bill Office. The Local Government Board then considers objections and, after holding a local inquiry, will, if satisfied of the desirability of granting the powers asked for, make the order and submit it to Parliament for the confirmation, without which it has no validity. Petitions may be made against such an order within seven days after the second reading of the confirmation Bill in either House, in which case the order is treated as an opposed private Bill and goes to the Local Legislation Committee for consideration. It is important that private Bills and petitions should be deposited before Parliament meets or early in the session, since both Houses refuse to consider such Bills after dates specified by annual resolutions of the House of Lords and by the standing orders of the House of Commons.

## CHAPTER V.

### SUBORDINATE LEGISLATION.

IN the making of bye-laws—laws for the regulation of a “by” or township—a local authority is functioning in a purely legislative although subordinate capacity. A bye-law has been defined as “an ordinance affecting the public or some portion of the public, imposed by some authority clothed with statutory powers, ordering something to be done or not to be done, and accompanied by some sanction or penalty for its non-observance,”<sup>1</sup> or as “a local law made with due legal obligation by some authority less than the Sovereign and Parliament in respect of a matter specially referred to that authority.” The main point about bye-laws, as of all subordinate legislation, is that they must be within the powers conferred upon the local authority, and consequently the powers are to be found in the general public law of the land; any bye-law made outside these powers would be held by the courts to be *ultra vires*. A bye-law may also be invalid for other reasons, as a long series of judicial decisions shows; and its confirmation or acceptance by the prescribed authority does not render valid a bye-law which by its nature is invalid. It is therefore important that the conditions to which bye-laws must conform should be steadily kept in mind when drafting them, since omission to do so may, at the best, result in disallowance and delay, and, at the worst, involve the local authority in the vexation and expense of a series of judicial defeats. In general the conditions are: (1) they must be reasonable; (2) they must be certain in their terms, plainly and definitely commanding or forbidding; (3) they must be general and not particular in their application; (4) they must not be

<sup>1</sup> Lord Russell, C.J., in *Kruse v. Johnson*, [1898] 2 Q. B. 91.

repugnant to the general law ; and (5) they must not be in restraint of trade—*e.g.*, they may be regulative but not prohibitive. With these reservations, bye-laws, if validly made, have the same force within the sphere of their legitimate operation as an Act of Parliament, and a local authority is not, as a rule, permitted to dispense with their provisions, since they “ are not for the authority’s benefit, but for that of the general public.”<sup>1</sup>

The powers to make bye-laws are, as a rule, optional, those for common lodging-houses<sup>2</sup> being one of the few exceptions ; and, unless a rural authority has obtained urban powers,<sup>3</sup> this legislative power is in many cases limited to urban authorities. As will be seen from the appended list (p. 49), these powers are scattered about the Public Health and other Acts, but borough councils<sup>4</sup> and county councils<sup>5</sup> are empowered to make bye-laws for the prevention and suppression of nuisances not otherwise punishable in a summary manner under any Act in force.

The procedure for the making of bye-laws under the Public Health Acts is laid down in the Act of 1875,<sup>6</sup> which also applies to those made by county and borough councils for the prevention and suppression of nuisances. Notice of the intention to apply for confirmation of the bye-laws must be given in a local newspaper at least one month before the application, during which time a copy of the proposed bye-laws must be kept at the office of the authority available for inspection by the ratepayers, who must be supplied with copies if willing to pay for them. The bye-laws must be made under the common seal of the local authority, and before coming into force must

<sup>1</sup> It is contrary to the practice of the Local Government Board to give local authorities a dispensing or discretionary power. *Vide* note, p. 443, Lumley’s “ Public Health Acts,” 7th ed.

<sup>2</sup> Public Health Act, 1875, s. 80.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., pp. cvi. and 180.

<sup>4</sup> Municipal Corporations Act, 1882, s. 23.

<sup>5</sup> Local Government Act, 1888, s. 16.

<sup>6</sup> Section 184.

be submitted to and confirmed by the Local Government Board, who must be satisfied that the prescribed procedure has been complied with. For the purposes of evidence it is important to note that a written or printed copy of the bye-laws under the corporate seal of a borough council or signed and certified by the clerk of other authorities is evidence of the making, confirmation, and existence of such bye-laws until the contrary is proved.<sup>1</sup> As a rule, local authorities when drafting bye-laws follow very closely the lines laid down in the series of model bye-laws which the Local Government Board has drawn up and issued for their guidance.

A minor legislative function of sanitary authorities is the making of regulations which are expressly exempted from the procedure applying to bye-laws.<sup>2</sup> In general they do not require the approval of the Local Government Board, but if enforceable by a penalty such approval is necessary.<sup>3</sup> The chief purposes affecting public health for which regulations may be made are for prescribing the mode in which connections between drains and sewers are to be made,<sup>4</sup> for removing to and keeping in a hospital persons found suffering from a dangerous infectious disorder on board a ship,<sup>5</sup> for the management of mortuaries provided by the local authority,<sup>6</sup> with respect to the duties and conduct of its officers and servants,<sup>7</sup> for prescribing the conditions under which cellar dwellings of a certain class may be occupied,<sup>8</sup> and for the general good health, order, and cleanliness of cattle and premises.<sup>9</sup> In the latter case the regulations must be published in a local newspaper and sent to the Local Government Board

<sup>1</sup> Public Health Act, 1875, s. 186.

<sup>2</sup> *Ibid.*, s. 188.

<sup>3</sup> *Ibid.*, s. 125, is a special exception to this rule.

<sup>4</sup> *Ibid.*, s. 21.

<sup>5</sup> *Ibid.*, s. 125.

<sup>6</sup> *Ibid.*, s. 143.

<sup>7</sup> *Ibid.*, s. 189.

<sup>8</sup> Housing and Town Planning Act, 1909, s. 17.

<sup>9</sup> Dairies, Cowsheds, and Milkshops Orders, 1885—1886.

a month before the date at which they come into force ; if, after inquiry, the Board is satisfied that they are too restrictive or otherwise objectionable, it may direct their revocation.

During the year ending March 31st, 1913, the Local Government Board confirmed and approved 326 series of bye-laws and regulations made by local authorities under the Public Health and kindred Acts <sup>1</sup> and 32 sets of bye-laws or regulations submitted by local authorities or companies, partly or wholly in pursuance of provisions of various local Acts or orders.<sup>2</sup>

In connection with the regulation of retail trade a subordinate legislative function—the making of orders, of which formerly comparatively little use had been made—has been greatly extended by the Shops Act of 1912, which is administered by the councils of counties, boroughs, and urban districts with a population exceeding 20,000. The law allows great diversity of action to shop-keepers in respect of closing, but with the consent of prescribed majorities of the retailers concerned the local authority may make orders fixing definite days and times which are applicable to all in the particular trade and area dealt with. The orders are of two kinds : for fixing the weekly half-holiday required, with certain exceptions, for all shops or for exempting shops of a particular class from the statutory requirement of a weekly half-holiday,<sup>3</sup> and secondly, for fixing a weekly half-holiday for the exempted trades or fixing the hours of closing for any class of shops upon days other than the weekly half-holiday.<sup>4</sup> The procedure differs. In the first case the local authority must prepare a register of the shops of the class to be dealt with and notify their intention to make an order by advertisement (twice) or by posting notices

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. ciii.

<sup>2</sup> *Ibid.*, p. cv.

<sup>3</sup> Shops Act, 1912, s. 4.

<sup>4</sup> *Ibid.*, s. 5.

in the district. A vote, by voting papers delivered to and collected from the occupiers concerned, is taken, or, if they have made a written application, the signatures must be verified, and if there is a majority in favour of the proposed day, the order fixing that day is made by the local authority, and all to whom it applies are bound by it. Before making an order for a weekly half-holiday for the exempted trades,<sup>1</sup> or for fixing the hours of closing on days other than the half-holiday ("closing order"), the local authority must be satisfied that there is a *prima facie* case for making such an order, a petition from the shopkeepers concerned being the usual form of satisfaction. The local authority must then prepare a register of the occupiers and advertise their intention to make an order by two notices, in a local paper and by notices posted up in the streets, and information must be given to ratepayers applying for it. After a lapse of four weeks, during which objections may be received, a vote is taken or the signatures to the petition are verified, when, if there is a two-thirds majority of the affected shopkeepers in favour, the council may proceed to make the order. This order, however, requires the sanction of the Home Secretary, to whom it must be submitted with proof that the prescribed procedure has been followed. Before sanctioning the order he may and will, if strongly petitioned against it, appoint a commissioner to hold a public inquiry, of which three weeks' notice must be given. At the inquiry persons affected may appear themselves or by counsel or agent. If confirmed by the Home Secretary, the order has the effect of an Act of Parliament, but it must be laid before each House of Parliament for forty days, and may be annulled by His Majesty in Council on an address for that purpose from either House.<sup>2</sup> Orders and closing orders may be revoked or amended in a way similar to that in which they are made.

<sup>1</sup> See Schedule II. of the Act.

<sup>2</sup> Shops Act, 1912, s. 6.

The Shops Act of 1912 has thrown very onerous duties upon the health departments of the local authorities concerned. The mixture of trades in many shops and the variety of half-holiday days and closing times will, unless great care is taken to secure some measure of universality, result in either a large increase of staff, neglect of other duties, or administrative chaos. It is probable that no recent regulative Act has created so much administrative difficulty and so much public dissatisfaction as this Act. The ideal, from an administrative point of view, is to have one general early closing day, but this is not possible owing to the alternative offered to the shopkeepers of choosing Saturday for closing. And from the point of view of small shopkeepers, who are frequently women, the general early closing day has the disadvantage of preventing them doing their own shopping on the only day convenient for the purpose. The alternative of Saturday early closing is, naturally enough, little favoured outside the Jewish community, for whose benefit it was inserted; and the small shopkeepers in poor districts complain, with some reason, that whilst Sunday trading is not stopped, they who are most affected are not given the alternative of closing on that day.

Orders for the closing and demolition of dwelling-houses that are unfit for human habitation may be made by sanitary authorities,<sup>1</sup> but these are judicial rather than legislative acts, and as such are dealt with elsewhere.<sup>2</sup> Sanitary authorities may extend the provisions of the Infectious Disease (Notification) Act, 1889, to any disease not enumerated therein, by an order made at a meeting of which special notice has been given. The order requires the sanction of the Local Government Board, and may be either temporary or permanent, but it does not come into force until at least a week has elapsed from the publication of the first advertisement notifying the making of such

<sup>1</sup> Housing and Town Planning Act, 1909, ss. 17 and 18.

<sup>2</sup> See Chapter XIX.



order.<sup>1</sup> Similar powers are conferred by the Public Health Acts Amendment Act, 1907,<sup>2</sup> in reference to offensive trades. Where this section has been adopted the sanitary authority may make an order, subject to confirmation by the Local Government Board, declaring any trade, business, or manufacture, not designated as an offensive trade in section 112 of the Act of 1875, to be an offensive trade subject to the provisions of that and the succeeding section as regards its establishment and regulation by bye-laws. Forty-three such orders were confirmed during the year ending March 31st, 1913, the trades thus specified including tanning, glue making, dealing in rags and bones, fish frying, parchment making, and skin drying.<sup>3</sup>

## BYE-LAWS.

- <sup>4</sup> Cleansing of footways, &c. ; removal of house refuse ; cleansing of earth-closets, privies, ashpits and cess-pools belonging to any premises (urban and rural). Public Health Act, 1875, s. 44.
- <sup>4</sup> Prevention of nuisances arising from snow, filth, &c. ; improper keeping of animals (urban and rural). *Ibid.*
- <sup>4</sup> <sup>5</sup> Common lodging-houses (urban and rural). *Ibid.*, s. 80.
- <sup>4</sup> Houses let in lodgings (urban and rural). *Ibid.*, s. 90 ; amended by Housing of the Working Classes Act, 1885, s. 8.
- <sup>4</sup> Offensive trades (urban) . Public Health Act, 1875, s. 113 ; amended by Public Health Acts Amendment Act, 1907, s. 51.
- <sup>4</sup> Public mortuaries (urban and rural). Public Health Act, 1875, s. 141.

<sup>1</sup> Section 7.<sup>2</sup> Section 51.<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. cv.<sup>4</sup> Model bye-laws made,<sup>5</sup> Compulsory.

BYE-LAWS (*continued*).

- <sup>1</sup> New streets and buildings (urban). Public Health Act, 1875, s. 157, and Public Health Acts Amendment Act, 1890, s. 23.
- <sup>1 2</sup> Slaughter-houses (urban) . Public Health Act, 1875, s. 169.
- Hop-pickers (urban and rural) *Ibid.*, s. 314.
- Fruit-pickers (urban and rural) Fruit Pickers Act, 1882.
- Removal of offensive or fæcal matter or liquid through streets (urban). Public Health Acts Amendment Act, 1890, s. 26.
- Tents, vans, sheds, or similar structures used for human habitation (urban and rural) Housing of the Working Classes Act, 1885, s. 9 (2).

## REGULATIONS.

- Removal to hospital of infected persons brought by ships (consent of Local Government Board necessary) (urban and rural). Public Health Act, 1875, s. 125 ; as amended by Public Health Act, 1904, s. 1.
- Places for *post-mortem* examinations (urban and rural). Public Health Act, 1875, s. 143.
- <sup>2</sup> Rooms habitually used as a sleeping place three feet below surface of street, &c. (urban and rural). Housing, Town Planning, &c., Act, 1909, s. 7 (*b*).

<sup>1</sup> Model bye-laws made.<sup>2</sup> Compulsory.

## CHAPTER VI.

### ADMINISTRATIVE ORGANISATION.

WE have seen that for the purposes of the administration of public health law England is mapped out into a number of districts the councils of which are endowed with various powers and functions and given the opportunity, where it is desired, to increase such powers and functions in certain directions by complying with a prescribed procedure. The result has been the creation of a system that an American observer has likened to "a large number of concentric circles; the outermost, having the largest powers, being the urban districts with all the functions of the Public Health Acts, adoptive Acts and kindred others; the innermost being the rural districts of the most limited competence. Between the two are numberless other districts having various powers and functions, and hardly any two coincide."<sup>1</sup>

It is now necessary to inquire by what mechanism, administrative and executive, these authorities work. It is an established axiom of public administration that whilst it is possible and sometimes desirable to have large bodies to deliberate upon and decide matters of general principle, the practical application of principles to the details of administrative work is best left to smaller and more select bodies of men.<sup>2</sup> This is the basis of the committee system; and Parliament, in framing the constitutions of local authorities and clothing them with their varied powers, has also empowered and, in certain cases, required them to appoint committees for the purposes of their work.

For the purposes of the Public Health Act, 1875, every

<sup>1</sup> Maltbie, "English Local Government of To-day," pp. 88-9.

<sup>2</sup> Compare J. S. Mill, "Representative Government," Chaps. V., XIV. and XV.

urban authority was empowered to appoint committees out of its own number where such authority was of opinion that any matter would be better regulated and managed by means of a committee ; but such committees were prohibited from borrowing money, making rates or entering into any contract, and were subject to any regulations or restrictions made by the local authority.<sup>1</sup> This power, except as applied to municipal boroughs, was repealed by the Local Government Act of 1894,<sup>2</sup> which empowered urban (except borough), rural, and parish councils to appoint committees, wholly or partly of members of the council, and to delegate any powers to them, subject to the condition that the acts of the committee are to be submitted to the council for approval. The council may, however, authorise committees appointed for the purposes of the Public Health or Highway Acts to institute proceedings or do any act which the council might have instituted or done except raising a loan, making a rate, or entering into a contract.<sup>3</sup>

The power given by this section to properly-constituted committees to institute legal proceedings is an important one in public health administration, especially where long intervals elapse between meetings of the council. It is much easier to get a committee together should occasion arise than to await the regular council meeting, and consequently the abatement of nuisances and the carrying out of urgent works is secured more expeditiously than would otherwise be the case, since the initiative of officials is severely limited.<sup>4</sup> In view of the requirement of the Municipal Corporations Act of 1882 that the acts of committees appointed by a borough council shall be submitted to the council for approval,<sup>5</sup> it appears to be doubtful whether such approval is required for the acts of such

<sup>1</sup> Public Health Act, 1875, s. 200.

<sup>2</sup> Schedule II.

<sup>3</sup> Local Government Act, 1894, s. 56.

<sup>4</sup> See Chapter XIV.

<sup>5</sup> Section 22.

a committee appointed for the purposes of the Public Health Act, 1875, but eminent legal authorities think that "probably it is not necessary."<sup>1</sup>

The utility of such a power where dispatch of business is desirable has been recognised by some towns which have obtained the power, by private Acts, to absolutely delegate specified matters to committees. And Parliament, apparently unable to follow Bentham's *dictum*, "Always do the same thing in the same way, that way being the best," or unable to determine which is the best way, has empowered local authorities to appoint committees for the purposes of the Housing of the Working Classes Act, 1890, and to delegate to them any of their powers under the Act, no confirmation being required unless the local authority impose such a condition.<sup>2</sup> Similar powers are given to county councils by the Local Government Act, 1888,<sup>3</sup> and to local authorities (county and county borough councils) by the Midwives Act, 1902.<sup>4</sup> In the latter case the committee may be wholly or partly members of the authority—women being eligible—unless the authority is a county council, in which case it may, as an alternative, delegate its powers to the district councils, who may redelegate them to committees, wholly or partly, of members of the council.

✓ For the purpose of securing efficient administration in rural districts, which frequently consist of small centres of population scattered over large areas, the Public Health Act, 1875,<sup>5</sup> empowered rural authorities to form parochial committees, wholly or partly, of members of the authority, with powers, subject to any regulations or restrictions imposed, to act as agents of the council. The non-members of the rural authority must now be members

<sup>1</sup> Lumley's "Public Health Acts" (7th ed.), note on p. 473.

<sup>2</sup> Section 81. The powers of borrowing, levying a rate, or entering into a contract are expressly excepted.

<sup>3</sup> Sections 28 and 82. Contracting is not prohibited in this case.

<sup>4</sup> Sections 8 and 9. Compare Milk and Dairies Act, 1914, s. 12.

<sup>5</sup> Section 202.

of the parish council of the parish for which the committee is appointed.<sup>1</sup> The functions of such a committee are mainly supervisory, the opinion of the Local Government Board being that among the powers which may properly be delegated to such a committee are :—

“ (1) The inspection of the parish to ascertain whether any works of construction are necessary or any nuisances exist which should be abated ; (2) to superintend the execution and maintenance of any works required or provided for the use of the parish ; (3) to consider complaints of any nuisances and the action of the medical officer of health or inspector of nuisances thereon, and to inform these officers of any nuisances requiring their attention, and to give such directions for the abatement of the same in cases of urgency as the circumstances may seem to require ; (4) to report to the sanitary authority the several matters requiring their attention and the manner in which their officers and servants have discharged their duties.”<sup>2</sup>

The Housing and Town Planning Act, 1909, which introduced innovations in several directions, has the distinction of creating the first statutory public health and housing committees, which, however, are only required of county councils. The section (71) is worth quoting *in extenso* :—

“ Every county council shall establish a public health and housing committee, and all matters relating to the exercise and performance by the council of their powers and duties as respects public health and housing of the working classes (except the power of raising a rate or borrowing money) shall stand referred to such committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the public health and housing committee with respect to the matter in question, and the council may delegate to the public health and housing committee, with or without restrictions or conditions as they think fit, any of their powers as respects public health and housing of the working classes except the power of raising a rate or borrowing money, and except any power of resolving that the powers of a district council in default should be transferred to the council.”

<sup>1</sup> Local Government Act, 1894, s. 15.

<sup>2</sup> Second Report of the Local Government Board, p. xlii.

It will be seen that every county council must establish a public health and housing committee, that, unless urgent, matters affecting public health must be referred to the committee, and that, with certain limitations, all powers of the county council under the Public Health and Housing Acts may be delegated to it without restrictions or conditions. The large areas of the counties and the infrequency of the meetings of the councils make such a provision essential if the large powers possessed by the councils of supervision over the district sanitary authorities are to be made effective. The same circumstances justified the compulsory character of the Isolation Hospitals Act, 1893, which requires the county council to constitute a hospital committee with wide powers, corporate capacity, perpetual succession and a common seal, for the management and maintenance of a district hospital provided under the Act.<sup>1</sup> If the county council make no contribution to the funds of the hospital so established, the committee must consist, unless the constituent local authorities otherwise desire, wholly of representatives of the local area or areas comprising the hospital district, but if the county council do contribute, they may constitute the committee either wholly of members of the county council, or partly of such members and partly of local representatives, or wholly of such local representatives.<sup>2</sup>

Another statutory committee must be established by the councils of all counties and of boroughs with a population in excess of 10,000 to administer the provisions of the Diseases of Animals Acts.<sup>3</sup> It may be composed wholly of members of the local authority or partly of such members and partly of rated occupiers of the district having the qualification fixed by the council. It may be designated an executive committee with all the powers

<sup>1</sup> Section 10.

<sup>2</sup> See Chapter XVII.

<sup>3</sup> Diseases of Animals Act, 1894, s. 31, and Schedule IV.

of the local authority, except making a rate, and may delegate to a sub-committee or sub-committees all or any of such powers. The Board of Agriculture may, however, when making orders authorising local authorities to make regulations, specify that such powers shall be exercised only by the local authority or their executive committee, in which case they cannot be delegated. Generally, the powers under this Act are delegated to the sanitary committee and by it to a sub-committee.

The powers to constitute committees have been exercised by all urban and many rural authorities. They vary in size, and are termed "health," "sanitary," or "public health" committees. As a rule they are constituted committees for the purposes of the Housing of the Working Classes, Midwives and Diseases of Animals Acts, as well as occasionally under the Small Holdings and Allotments Act, 1908, sub-committees acting in the latter capacity.

✓The duties and powers of these committees are not always formulated, and no fixed rule appears to determine them, except that they deal with all matters coming under the control or jurisdiction of the medical officer of health and the inspector of nuisances—the statutory health officers. Beyond this region of activity their powers may be circumscribed by the resolution or standing orders of the parent council, or they may develop, by the growth of precedents, an elastic method facilitated by a standing order which charges the town clerk or clerk, under the direction of the mayor or chairman, to assign to the committees the various matters of business from time to time arising, including all correspondence addressed to the council. When specifically formulated the reference of business may be more or less on the lines of the resolution of the Huddersfield County Borough Council, which defines the duties and powers of the health committee to be :—

“ To execute and perform in the name and on behalf of the council, but subject to the standing orders of the council and



to confirmation by the council, all the powers and duties of the corporation in relation to the following :—

Infectious and epidemic diseases.

Hospitals for infectious diseases.

Common lodging-houses.

Cleansing of infected houses.

Prevention of pollution of rivers and streams.

Health statistics and sickness and mortality returns.

Superintendence of the department of the medical officer of health.

All the powers and duties imposed upon the council by the Midwives Act, 1902.

Removal and disposal of nightsoil and refuse.

Public urinals and conveniences.

Nuisances.

Offensive trades.

Control of drains, privies, ashpits and cesspools.

Buildings and rooms unfit for habitation.

Polluted wells.

Adulteration of food and drugs.

Unwholesome food.

Cowsheds, dairies and milkshops.

Canal boats.

Factories and workshops.

Small holdings and allotments (pursuant to the Small Holdings and Allotments Act, 1908)."<sup>1</sup>

The committees elect their own chairmen, arrange their own time of meeting, special meetings being convened by the chairman, and are attended by the various officials as the business requires, a special clerk being usually deputed to record attendances, take minutes, and act generally under the supervision of the clerk of the council.

No generalisation can be made as to the composition of health committees, unless it is that builders and property owners are almost invariably well represented. Perhaps it is because of the great diversity of the matters dealt with or the absence of business of which a public show and parade can be made, that few public men appear to take a deep and prolonged interest in and study of public

<sup>1</sup> Annual Report of the Medical Officer of Health for Huddersfield, 1910, p. 4.

health administration. Finance appeals strongly to some minds, and the great trading committees attract the attention of efficient business men, but the work of public health administration is essentially a complexity of details with which, as a rule, the officials alone are competent to deal. It remains true, however, that "no progress at all can be made towards obtaining a skilled democracy, unless the democracy are willing that the work which requires skill should be done by those who possess it. A democracy has enough to do in providing itself with an amount of mental competency sufficient for its own proper work, that of superintendence and check."<sup>1</sup> On the whole the public health committees, of the most important areas at least, fulfil this function adequately and with a large degree of efficiency.

<sup>1</sup> J. S. Mill, "Representative Government" (Everyman's Library Edition), p. 248.

## CHAPTER VII.

### THE LOCAL EXECUTIVE.

MANY years ago J. S. Mill laid stress upon the fact that "there is a radical distinction between controlling the business of Government and actually doing it"<sup>1</sup>; this is very evident when one views the actual working of public health administration. It is then realised that "behind the council and its committees, little seen by the public, but carrying the main burden of the public work, stand the permanent officials."<sup>2</sup> And it is possible to go rather farther and say that the better and more trustworthy the officials are the lighter is the control exercised over their actions and the more it is tempered by the advice of those it is exercised over. The opinion of those who are doing or will have to do anything determined upon by the local authority must necessarily have great weight, especially in public health administration, where every duty and function is prescribed or limited by law.

Of course, the number and importance of the officials varies considerably, but even in the smallest and least populous districts the medical officer of health and the inspector of nuisances are to be found. As the districts increase in size and population the sanitary executive develops from these two officers as centres until the numerous, highly-trained and specialised staffs of the modern health departments of the great county boroughs are reached.

✓It is compulsory upon every urban and rural sanitary authority to appoint a medical officer of health and an

<sup>1</sup> J. S. Mill, "Representative Government" (Everyman's Edition), p. 229.

<sup>2</sup> Lowell, "Government of England," Vol. II., p. 170.

inspector of nuisances; but whilst urban authorities are limited to one of each class of officer, with or without assistants, a rural authority may appoint as many as they deem desirable.<sup>1</sup> Since the passing of the Housing and Town Planning Act, 1909,<sup>2</sup> it is similarly incumbent upon county councils to appoint medical officers of health, and many of them have also appointed sanitary inspectors. Another official, whose duties are complementary to some of those of the medical officer of health and the inspector of nuisances, is the public analyst, who must be appointed by all county councils and by the councils of boroughs containing a population of over 10,000.<sup>3</sup> These three officials comprise the irreducible minimum of the public health executive of a town with a population of over 10,000; less populous towns and rural districts may not appoint public analysts, and county councils need not appoint sanitary inspectors; but the growth of public health and kindred legislation and the great increase of duties of various kinds thrust upon local authorities has led, in all the great centres of population, to a considerable increase in numbers and kind of the official staff.

Since the Public Health Act of 1875 a number of statutes or orders of departments of the central Government have required or authorised the specified local authorities to appoint or designate officers for their enforcement. Samples must be procured under the Sale of Food and Drugs Act, canal boats must be registered and inspected, the provisions of the Shops Acts and of the Diseases of Animals Acts must be enforced, officers must be designated to act under the Housing and Town Planning Act, and as assistants to the medical officer of health under the regulations of the Local Government Board made as provided in the Public Health (Regulations as to Food) Act, 1907,<sup>4</sup> whilst the Tuberculosis Order of the Local

<sup>1</sup> Public Health Act, 1875, ss. 189 and 190.

<sup>2</sup> Section 68.

<sup>3</sup> Sale of Food and Drugs Act, 1899, s. 3.

<sup>4</sup> Article 11.

Government Board <sup>1</sup> permits the appointment of a tuberculosis officer, and the orders of the Board of Agriculture, such as the American Gooseberry Mildew Order, 1912, require an officer to enforce them.

✓ This growth of executive duties has had a twofold effect: in the smaller districts it has concentrated a complexity of functions upon one or two officials, while in the county boroughs it has led to the development of a large staff of specialised officials detailed for comparatively simple, if important, duties and relieved of much work of a clerical character by a staff of clerks.

An idea of the character and extent of this specialisation may be obtained by comparing the public health staffs of an urban district like Kettering, with a population of about 40,000, with those of the city and port of Bristol (population 382,550) and the county borough of Huddersfield (population about 100,000). At Kettering the officials consist of a medical officer of health, inspector of nuisances, assistant inspector of nuisances, and a lady sanitary inspector.<sup>2</sup> At Bristol there are a medical officer of health, chief inspector of nuisances, superintendent inspector of nuisances, twelve district inspectors, an inspector of common lodging-houses and bakehouses, an inspector of dairies, cowsheds and milkshops, two inspectors of slaughter-houses, meat and fish, an inspector of workshops, &c., an inspector of tenement houses, a chief clerk, a statistical clerk, and five clerical assistants; this staff being supplemented for the purposes of the port of Bristol by an assistant port medical officer of health, a chief port inspector, a port inspector, an assistant port inspector, and an inspector of foods.<sup>3</sup> The staff at Huddersfield consists of a medical officer of health, three assistant medical officers of health (two being ladies), a chief sanitary inspector, a deputy chief sanitary inspector, five assistant

<sup>1</sup> Issued December 19th, 1912, art. 13.

<sup>2</sup> Medical Officer of Health's Report for 1910 (Kettering).

<sup>3</sup> Medical Officer of Health's Report for 1910 (Bristol).

inspectors, an infectious diseases officer and three clerks.<sup>1</sup> To such staffs in many places must be added health visitors, shops inspectors, tuberculosis officers and others, the names of the officers and the distribution of duties being usually prefixed to the annual reports of the medical officers of health.

The decision as to the duties, qualifications, and appointment of these officers is usually left in the hands of the health committees, subject to the sanction and sometimes, in the case of the higher officials, to the final choice of the council. But in the case of the county district authorities desiring to receive the payment of a moiety of the salaries of their medical officer of health, inspector of nuisances, and, in London, health visitors, from the Exchequer Contribution Account of the county council, the sanction of the Local Government Board to the appointment must be obtained. The conditions which must be complied with in order to obtain this sanction are specified in the Sanitary Officers (Outside London) Order, 1910, the Sanitary Officers (Ports) Order, 1910, and the Health Visitors (London) Order, 1909. Vacancies must be advertised at least seven days before the council proceed to make the appointment by a majority of those voting at a meeting of not less than three members. The appointment may be for a specified term or without limit of time, and must be notified to the Local Government Board within seven days of being made, together with particulars as to the area and population of the district, term of appointment, salary, time (whole or part) devoted to duties, and other public offices held or private profession or business followed. The consent of the Local Government Board is not obtained as a mere matter of routine; proposals to make appointments are carefully considered and occasionally rejected, usually on the grounds of insufficient qualification of the proposed official or that the appointment is against good public policy. Upon the latter

<sup>1</sup> Medical Officer of Health's Report for 1910 (Huddersfield).

point the Board has expressed its views strongly in a circular issued to local authorities,<sup>1</sup> in which it stated its agreement with the view of the Royal Commission on the Poor Laws that "a local authority should not be allowed to appoint an ex-member as a paid officer unless he or she has ceased to be a member of the local authority for a period of, say, twelve months before appointment," and intimated "that in future, unless very special grounds are shown, they will not be prepared to sanction the appointment to any office, in respect of which their sanction may be requested, of any person who is or has been within twelve months a member of the council making the appointment." This opinion was acted upon in the case of a proposal for the appointment of a surveyor and sanitary inspector by the Dartmouth Town Council, which the Local Government Board refused to sanction.<sup>2</sup>

The extent to which the Local Government Board has used this power and some of the reasons for its use may be gathered from the following figures. Up to March 31st, 1913, the appointment of medical officers of health had been sanctioned in 1,029 out of 1,133 boroughs and urban districts and 644 out of 661 rural districts,<sup>3</sup> and in the case of 16 out of 61 medical officers of health serving 60 port sanitary authorities, the chief reason for refusal in the last cases being that the authority had not appointed the medical officer of health of the adjoining borough or district.<sup>4</sup> Excluding the councils of county boroughs, who do

<sup>1</sup> May 5th, 1911.

<sup>2</sup> *Municipal Journal* for May 9th, 1913, p. 596. Compare the report on the sanitary circumstances of the borough of Dartmouth by Dr. Mivart, of the Local Government Board, in which he states that "the inspector of nuisances is a retired builder, with no previous experience of the work and no sanitary certificate; he resigned from the council in order to apply for the post, and was appointed in preference to 108 other applicants, some of whom are said to have possessed certificates and to have had previous experience."

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. xli.

<sup>4</sup> *Ibid.*, p. xlii.

not as a rule apply for the sanction to such appointments, as the question of repayment is immaterial to them, there were in the year ending March 31st, 1913, 69 districts which did not receive the repayment of a moiety of the salary of the medical officer of health ; 51 of them had not applied for the sanction of the Board, whilst such sanction was applied for and refused in the remaining 18 cases. The Board give the following reasons for their refusal :—

- (1) Inadequate salary (four cases).
- (2) Officer unsatisfactory (three).
- (3) Appointment of new medical officer of health instead of reappointing the officer who had served efficiently for a number of years (three).
- (4) Appointment of medical officer of health without special qualifications when several candidates with the diploma in public health applied (three).
- (5) Appointment of a medical officer of health who had been a member of the council (four).
- (6) Insufficient time devoted to duties (one).
- (7) Appointment of more than one medical officer of health (one).<sup>1</sup>

To the end of March, 1913, the Board had sanctioned the appointment of inspectors of nuisances in 991 boroughs and urban districts, 617 rural districts, and 44 port sanitary districts ; in 54 cases the officer acts for more than one district, and in 19 cases the inspector for the port is also inspector for an adjoining district.<sup>2</sup> During the period from January 1st, 1912, to March 31st, 1913, 178 new appointments of inspectors of nuisances were made in districts other than county boroughs, of which 140 held certificates of the Royal Sanitary Institute, 23 were qualified by previous experience and 15 were refused sanction, seven of these, however, being adjourned to give the appointee a chance of obtaining a certificate.<sup>3</sup> The

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xli.

<sup>2</sup> *Ibid.*, p. xliii.

<sup>3</sup> *Ibid.*, pp. xliii. and xlv. The Board refused to sanction



situation as regards inspectors of nuisances was finally summarised as showing that in "1,854 districts there are 1,986 inspectors of nuisances holding 2,072 appointments—1,752 with the Board's sanction, and 320 without such sanction."<sup>1</sup>

No generalisation can be made as to salaries paid to health officers, who may in addition receive allowances for service outside the scope of their ordinary duties: they vary from the £30 or £40 per year paid to a part-time inspector of nuisances in a rural district up to the £1,000 to £1,500 received by the medical officers of health of the great county boroughs; but on the whole they appear to be lower in the great industrial districts of the north than in the southern towns, the officers in the metropolitan area being the best paid.<sup>2</sup> The following information regarding the salaries and engagements of medical officers of health was elicited by a question in the House of Commons<sup>3</sup> :—

—	Number engaged whole time.	Ditto and receiving a total remuneration of £500 per annum or over.	Ditto receiving less than £500.	Number engaged in private practice.
Counties . . . .	61	49	12	
City of London . .	30	30		
Port of London . .				
Metropolitan Boroughs				
Other Sanitary Authorities . . . .	221	159	62	1,125

the appointment of a young farmer as inspector of nuisances to the Glaslyn rural council (*Local Government Chronicle*, September 13th, 1913, p. 869). They refused to reconsider their decision and council re-advertised appointment (*Municipal Journal*, October 17th, 1913, p. 1359).

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xliii.

<sup>2</sup> See a return prepared by author and published in the *Municipal Journal*, May 2nd, 1911, p. 467.

<sup>3</sup> Answer by President of the Local Government Board, March 16th, 1914.

The offer of half the salaries of the medical officer of health and inspector of nuisances on condition of the approval of the Local Government Board to their appointment and dismissal (if appointed for an unlimited term) has not tempted those authorities which prefer to keep a free hand in dealing with their officers, but there is not much evidence that this freedom is generally abused or that such officers are always inefficient or inactive. On the other hand, the contribution has the valuable effect of stimulating authorities, who would otherwise be indifferent, to appointing well-qualified men.

Security of tenure in their office during good behaviour is a condition of service only partially realised by public health officers, yet it is they more, perhaps, than any other class of officials who should be protected in the performance of their duties from the attacks of those whom their activity may have offended. The Local Government Board has never succeeded in getting the same measure of control over the dismissal of the medical officer of health and the inspector of nuisances that it possesses in the case of poor law officials, and its Presidents have not always been desirous of securing for them that security of tenure in their offices which all sanitarians recognise is a *sine quâ non* for energetic and efficient service. Except in the cases of county and metropolitan medical officers of health and of officers appointed to hold office without limit of time, the sanction of the Local Government Board to dismissal is only required in cases where the prescribed three months' notice terminating the service at the end of the period for which the officer was appointed has not been given. The later orders are more favourable to the officers than those previously in force, inasmuch as appointments were formerly only sanctioned for periods of one or two years, at the end of which a new resolution was required, thus opening up a debate giving opportunity for malice and spite to vent itself. Now, in the absence of a resolution to the contrary, the appointment is valid

and continues from year to year. The tenure of the county medical officer of health is much more secure ; the Housing and Town Planning Act, 1890, enacts that he shall not be appointed for a limited period, and that he shall only be removable with the consent of the Local Government Board.<sup>1</sup> This is the position every health officer ought to be in, and it is difficult to see why the security given to an officer of the county should be withheld from those of the districts who are in much more intimate relation with and frequent antagonism to councillors and their friends.

An eminent foreign student of English public administration thought that " the Legislature, by prescribing for these local officers (medical officers of health and inspectors of nuisances) certain conditions of dependence upon the central authority, has given the latter a potent leverage on the work of local government," and asserted that " this peculiar device powerfully assists the Local Government Board and serves as a bulwark to the control which it exerts on behalf of the State over the local administration of sanitary law." <sup>2</sup> This is undoubtedly far too optimistic a view, as the medical officer to the Local Government Board recognised when he wrote that " in some districts the efficiency and zeal of the medical officer of health or inspector of nuisances or both have been called in question. When insanitary conditions promoting disease are allowed to persist, intimate local knowledge is needed to apportion blame between the official and the council. An official who is subject to reappointment, or who can be dropped at intervals of one or a few years, finds it difficult to carry out his duties ; and, apart from this motive for inertia, the officer's efforts can always be thwarted by a council which refuses to serve the statutory notices required to enforce the provisions of the Public Health Acts, or refuses

<sup>1</sup> Section 68.

<sup>2</sup> Redlich and Hirst, " English Local Government," Vol. II., pp. 292-3.

to take defaulters before a court of summary jurisdiction.”<sup>1</sup> At last the Local Government Board appear to be waking up to this fact, since the President has announced that amongst other matters under consideration by the Government in connection with a new Housing Bill which is being prepared by them is that of security of tenure for medical officers of health and sanitary inspectors.<sup>2</sup>

Whilst it is certainly desirable that health officers should possess security of tenure, it is very doubtful how far it can be maintained against the wishes of a local authority determined to rid itself of an official. The refusal of the Local Government Board to sanction an appointment will inflict pecuniary loss upon a district; but refusal to sanction a dismissal has no such unpopular effect, and may only result in the authority achieving its end by making the officer's life so burdensome and unpleasant that he gladly seeks an office elsewhere, even at a reduced salary. Such, at least, appears to be the experience where the Board and a local authority have come into conflict over the dismissal of sanitary officers.

<sup>1</sup> Thirty-ninth Report of the Local Government Board (Medical Officers Report), p. xv.

<sup>2</sup> The Right Hon. H. Samuel in the debate on Sir A. Boscawen's Housing Bill in Session of 1914. See also the report of deputations to the Chancellor of the Exchequer and the President of the Local Government Board on the subject of superannuation and fixity of tenure, in the *Municipal Journal*, June 12th, 1914, p. 709.

## CHAPTER VIII.

### THE MEDICAL OFFICER OF HEALTH.

FOREMOST among the officials of the sanitary department stands the medical officer of health, occupying, in the large districts, an equal official and social status to the other executive chiefs—engineer, treasurer, &c.—their duties being linked together, and, in some cases, co-ordinated under the general supervision of the town clerk. A century ago the office was unknown ; to-day the position of medical officer of health to London, Liverpool, Bradford, or any of the other great urban centres is one to which all medical practitioners who have entered the public health service aspire.

The great sanitary pioneer, Sir E. Chadwick, recommended, as one of the means by which the sanitary condition of the labouring classes could be improved, “ the appointment of district medical officers, independent of private practice, and with the securities of special qualifications and responsibilities to initiate sanitary measures and reclaim the execution of the law ”<sup>1</sup> ; and the Royal Commission, which, in 1844, inquired into the health of large towns, repeated the recommendation. These proposals quickly bore fruit. The honour of being the first authority to appoint a medical officer of health belongs to Liverpool, where, under the powers of a local Act, Dr. William H. Duncan was appointed in 1844, “ the earliest of the profession to hold such office in this country.”<sup>2</sup> The City of London, again under powers given by a private Act, speedily followed (1848) by

<sup>1</sup> Simon, “ English Sanitary Institutions,” p. 195.

<sup>2</sup> *Ibid.*, p. 245.

appointing Dr. John Simon, who afterwards became medical officer to the Local Government Board, was later knighted as a reward for his services on behalf of the public health, and finally left his great work "English Sanitary Institutions" as an everlasting monument to his memory and worth.

With the passing of the Public Health Act in 1848, and the consequent creation of local boards of health, the medical officer of health became an essential part of the local administrative machinery, and by the great consolidating Act of 1875 every urban and rural sanitary authority was compelled to make such appointment. The Local Government Act of 1888, which established county councils, empowered those authorities to appoint a medical officer of health,<sup>1</sup> but in 1909 this optional power was converted into a compulsory one, and the county medical officer of health was placed in a peculiarly favourable position by prohibiting his appointment for a limited period and by making it impossible for the county council to discharge him without the consent of the Local Government Board.<sup>2</sup>

It is essential that an officer with the important duty of acting "as impartial public accuser and adviser against whatsoever unwholesome influences in his district should be removable under the sanitary law" should be not only highly trained, but removed from those influences "which might probably render his official judgment less short-sighted or his official activity less straightforward than it ought to be."<sup>3</sup> It has therefore been generally recognised that the medical officer of health ought to be occupied solely in the public service, and that such service should involve duties sufficient to occupy his whole time, and carry with them a remuneration adequate to attract men of the highest qualifications and character. To this

<sup>1</sup> Section 17.

<sup>2</sup> Housing and Town Planning Act, 1909, s. 68.

<sup>3</sup> Simon, "Sanitary Institutions," pp. 336-7.

end, and for the additional reasons arising from the growth of co-ordinate duties and a desire to diminish expenses, local authorities are empowered to combine for the purpose of appointing a medical officer of health, who may be, with the sanction of the Local Government Board, the district medical officer of a poor law union;<sup>1</sup> the power given to district authorities to utilise the services of the county medical officer of health by arrangement with the county council<sup>2</sup> has been revoked except so far as it would prejudice prior arrangements.<sup>3</sup> In the same Act a county medical officer appointed after it became law is prohibited from engaging in private practice, and "the express written consent of the Local Government Board" is required before he may be appointed to any other additional public office.<sup>4</sup>

Another method of attaining the same end is the combination of other offices with that of medical officer of health, and the Local Government Board in their memorandum dealing with the appointment of medical officer of health urge the desirability of uniting the office with that of assistant school medical officer in counties or school medical officer in autonomous education areas. They further favour the joint holding by the medical officer of health of the office of superintendent of the isolation hospital, of certifying factory surgeon, police surgeon, public vaccinator, district medical officer and medical officer of the workhouse, and suggest that, where qualified, he may be allowed to make analyses and bacteriological examinations of water and for the diagnosis of disease.<sup>5</sup> Of course, it is only in the smaller districts that one man, however capable and energetic he may be, can efficiently perform all or any extensive combination of these duties, but it is precisely in those districts where the securing

<sup>1</sup> Public Health Act, 1875, s. 191.

<sup>2</sup> Local Government Act, 1888, s. 17.

<sup>3</sup> Housing and Town Planning Act, 1909, s. 68.

<sup>4</sup> *Ibid.*

<sup>5</sup> Issued in December, 1910.

of the whole time of a highly-qualified man is most difficult unless, by such a combination of posts, an adequate salary can be assured.

The extent to which sanitary authorities have been compelled or persuaded to secure the services of whole-time medical officers of health may be gathered from the following facts and figures <sup>1</sup> :—46 out of 60 county medical officers of health, 56 of whom are also school medical officers, give their whole time to their duties ; the councils of 68 out of 75 county boroughs, of 71 out of 1,058 boroughs and urban districts, and 15 out of 661 rural districts, and two out of 60 port sanitary authorities had made similar appointments before March 31st, 1913, and 332 districts had combined to secure the whole-time services of 60 medical officers of health, these being comprised of one county borough, 152 other boroughs and urban districts, 177 rural districts and two port sanitary districts. Most of the medical officers of health of the metropolitan boroughs are whole-time officers, and of the county medical officers of health (14) who did not give their whole time to their county duties three, appointed before 1909, also acted for districts in their county and four, similarly appointed, also acted for districts outside their county, the remainder being accounted for by officers who lecture or examine in public health, act as public analyst, coroner, school medical officer for a borough in the county, or as medical officer to a hospital. An instructive table shows the progress made in the appointment of whole-time medical officers of health since 1873 :—

Year.		Number of districts.	Per cent. of population.
1873	. .	249	20·6
1881	. .	308	22·9
1891	. .	308	29·7
1901	. .	395	49·2
1911	. .	501	61·4

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., pp. xl. *et seq.*



It is essential that an officer having such important and highly technical duties as the medical officer of health should be able to furnish evidence of the possession of the training and skill necessary to ensure for him the confidence of the medical profession and the community, and to enable him to advise with effect his authority upon questions which may involve the health and lives of many people and the spending of much public money. At first the system of grants in aid of the medical officer's salary was relied upon to secure this, but the Public Health Act of 1875<sup>1</sup> prohibited the appointment of anyone as medical officer of health who "is not a legally qualified medical practitioner," and gave the Local Government Board power to prescribe the qualifications, conditions of appointment, duties, salary and tenure of office of such officer where part of his salary was repaid out of public funds, but otherwise the power only extended to qualifications and duties. The recognised qualification is that required to constitute a "registered medical practitioner," who is defined in the Medical Act of 1886 as "a person who has passed a qualifying examination in medicine, surgery and midwifery held by a university or legally qualified medical corporation or a combination of either or both." The Local Government Act, 1888, had the effect of weakening these requirements in one direction by giving the Local Government Board power to waive the qualifications in cases of county or county districts; but in the absence of this relief it increased the qualifications by requiring that any medical officer of health appointed after 1892 for a county or county district or a combination of such districts, with a population at the previous census of over 50,000, shall, in addition to being a registered medical practitioner, either (1) be registered as a holder of a diploma in sanitary science, public health or state medicine; or (2) have been, for three years prior to 1892, medical officer of health of a district or a combina-

<sup>1</sup> Section 191.

tion of districts, with a population at the last census of not less than 20,000 ; or (3) have been for not less than three years before the passing of the Act a medical officer or inspector of the Local Government Board.<sup>1</sup> It will be readily seen that it is only the first of these alternatives that is operative to-day.

The Local Government Board have, from time to time, exercised their powers of making orders prescribing regulations with respect to the qualifications, appointment, duties, salary, and tenure of office of medical officers of health, and in 1910 rescinded all previous orders by three orders enumerating, amongst other things, the duties of medical officers of health of counties, urban and rural sanitary districts, and of ports.

The Sanitary Officers (Outside London) Order, issued on December 13th, 1910, specifies the following duties of the medical officer of health in respect of the district or combination of districts for which he is appointed :—

*“ Duties of Medical Officer of Health.*

“ Article XIX.—The following shall be the duties of the medical officer of health in respect of the district for which he is appointed ; or if he is appointed for more than one district, then in respect of each district :—

- “ (1) He shall inform himself as far as practicable respecting all influences affecting or threatening to affect injuriously the public health within the district.
- “ (2) He shall inquire into and ascertain by such means as are at his disposal the causes, origin, and distribution of diseases within the district, and ascertain to what extent the same have depended on conditions capable of removal or mitigation.
- “ (3) He shall by inspection of the district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.
- “ (4) He shall be prepared to advise the council on all matters affecting the health of the district, and on all sanitary points involved in the action of the council ;

<sup>1</sup> Section 18.

and in cases requiring it, he shall certify, for the guidance of the council or of the justices, as to any matter in respect of which the certificate of a medical officer of health or a medical practitioner is required as the basis or in aid of sanitary action.

- “(5) On receiving information of the outbreak of any infectious or epidemic disease of a dangerous character within the district, he shall visit without delay the spot where the outbreak has occurred, and inquire into the causes and circumstances of such outbreak, and in case he is not satisfied that all due precautions are being taken, he shall advise the persons competent to act as to the measures which appear to him to be required to prevent the extension of the disease, and shall take such measures for the prevention of disease as he is legally authorised to take under any statute in force in the district or by any resolution of the council.
- “(6) Subject to the instructions of the council, he shall direct or superintend the work of the inspector of nuisances in the way and to the extent that the council shall approve, and on receiving information from the inspector of nuisances that his intervention is required in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall, as early as practicable, take such steps as he is legally authorised to take under any statute in force in the district, or by any resolution of the council, as the circumstances of the case may justify and require.
- “(7) In any case in which it may appear to him to be necessary or advisable, or in which he shall be so directed by the council, he shall himself inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk, and any other article to which the provisions of the Public Health Acts in this behalf apply, exposed for sale, or deposited for the purpose of sale or of preparation for sale, and intended for the food of man, which is deemed to be diseased, or unsound, or unwholesome, or unfit for the food of man ; and if he finds that such animal or article is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall give such directions as may be necessary for causing the same to be dealt with by a justice according to the provisions of the statutes applicable to the case. He shall also

take such action as it may be necessary for him to take by virtue of the provisions of the Public Health (Regulations as to Food) Act, 1907, and any regulations made thereunder.

- “(8) He shall perform all the duties imposed upon him by any bye-laws and regulations of the council, duly confirmed where confirmation is legally required, in respect of any matter affecting the public health, and touching which they are authorised to frame bye-laws and regulations.
- “(9) He shall inquire into any offensive process of trade carried on within the district, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom.
- “(10) He shall attend at the office of the council or at some other appointed place, at such times as they may direct.
- “(11) He shall from time to time report in writing to the council his proceedings, and the measures which may require to be adopted for the improvement or protection of the public health in the district. He shall in like manner report with respect to the sickness and mortality within the district, so far as he has been able to ascertain the same.
- “(12) He shall keep a book or books, to be provided by the council, in which he shall make an entry of his visits, and notes of his observations and instructions thereon, and also the date and nature of applications made to him, the date and result of the action taken thereon and of any action taken on previous reports ; and shall produce such book or books, whenever required, to the council.
- “(13) On Monday, the ninth day of January, one thousand nine hundred and eleven, and on every Monday thereafter, he shall forward us by post, at such an hour as in the ordinary course of post will ensure its delivery to us on the following Tuesday morning, a return, in such form as we from time to time require, as to the number of cases of infectious disease notified to him during the week ended on the preceding Saturday night. He shall also forward at the same time a duplicate of the return to the medical officer or officers of health of the county or counties in which the district is situated.
- “(14) He shall as soon as practicable after the thirty-first day of December in each year make an annual report

to the council, up to the end of December, on the sanitary circumstances, the sanitary administration, and the vital statistics of the district.

- “(15) He shall forthwith report to us any case of plague, cholera, or small-pox, or of any serious outbreak of epidemic disease in the district which may be notified to him, or which may otherwise come or be brought to his knowledge.
- “(16) He shall transmit to us three copies of each annual report and one copy of any special report. At the same time that he transmits to us the copies of his annual report or of any special report, or that he reports to us a case of plague, cholera, or small-pox, he shall transmit a copy of the report or give the like information to the county council or county councils of the county or counties within which the district is situated. Where the medical officer of health is appointed by the council of a county borough, or by a council having delegated powers under the Midwives Act, 1902, he shall also transmit to the Privy Council and to the Central Midwives Board either a copy of his annual report or of that part of it which contains the statement relating to the administration of the Midwives Act, 1902.
- “(17) In matters not specifically provided for in this Order, he shall observe and execute any instructions issued by us, and the lawful orders and directions of the council applicable to his office.
- “(18) Whenever we shall make regulations and shall declare the regulations so made to be in force within any area comprising the whole or any part of the district, he shall observe such regulations, so far as the same relate to or concern his office.”

The Sanitary Officers (Ports) Order, issued eight days later than the above, enumerated similar duties, *mutatis mutandis*, as respects ships and the area of the port sanitary district as defined by the constituent provisional order.

Earlier in the same year (July 29th) the Local Government Board issued an order defining the duties of the medical officers of health, who were required to be appointed by the county councils, as follows:—

- “(1) The medical officer of health of the county shall inform himself as far as practicable respecting all influences

affecting or threatening to affect injuriously the public health in the county. For this purpose he shall visit the several county districts in the county as occasion may require, giving to the medical officer of health of each county district prior notice of his visit, so far as this may be practicable.

- “(2) The medical officer of health of the county shall from time to time inquire into and report upon the hospital accommodation available for the isolation of cases occurring in the county—
- (a) of small-pox, and
  - (b) of other infectious diseases,
- and upon any need for the provision of further hospital accommodation.
- “(3) The medical officer of health of the county shall communicate to the medical officer of health of a county district within the county any information which he may possess as to any danger to health threatening that district.
- “(4) The medical officer of health of the county shall consult with the medical officers of health of county districts within the county whenever the circumstances may render this desirable.
- “(5) If the annual or special reports of the medical officer of health of a county district in the county shall not contain adequate information in regard to
- (a) the vital statistics of the district,
  - (b) the sanitary circumstances and administration of the district, and
  - (c) the action taken in the district for putting in force the provisions of the Housing of the Working Classes Acts, 1890 to 1909,
- the medical officer of health of the county shall obtain from the medical officer of health of the county district such further information on those matters as the circumstances may demand.
- “(6) The medical officer of health of the county shall, when directed by us, or by the county council, or as occasion may require, make a special report to the county council on any matter appertaining to his duties under this Order.
- “(7) The medical officer of health of the county shall as soon as practicable after the 31st day of December in each year make an annual report to the county council up to the end of December on the sanitary

circumstances, the sanitary administration and the vital statistics of the county.

- “(8) The medical officer of health of the county shall send to us two copies of his annual report and two copies of any special report ; he shall also send one copy of his annual report to the council of every county district in the county, and shall send three copies of any special report to the council of every such county district affected by the special report.”

A comparison of the provisions of this order with those applying to district medical officers of health brings out very clearly the supervisory and co-ordinating functions of the county medical officer of health. The attempt is being made to devolve some of the duties hitherto not very effectively performed by the Local Government Board upon the county council acting through its medical officer of health in constant touch with local circumstances and in frequent communication with local authorities. How far an officer in close and permanent relation to the local authorities in the small and well-defined area of a county will succeed in securing and maintaining a higher level of sanitation in the smaller districts remains to be seen. The experiment is an interesting one and may in time remove the necessity for the frequent and much disliked local inquiries by “officials from London.”

Later legislation has extended the duties of the medical officer of health. The National Insurance Act, 1911,<sup>1</sup> provides that “for the purpose of assisting insurance committees in the exercise and performance of their powers and duties under this part of this Act, and with a view to promoting co-operation between such committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of an insurance committee and with the consent of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power.”

<sup>1</sup> Section 60 (2).

The initiation of a general attack upon tuberculosis by means of the provision of sanatoria, dispensaries, and domiciliary treatment under powers conferred by the National Insurance and Finance Acts of 1911 has still further augmented the advisory and administrative duties of the medical officer of health ; and the order <sup>1</sup> which consolidated the Public Health (Tuberculosis) Regulations of 1908 and 1911 placed upon him the duties of receiving and registering notifications of tuberculosis, and, either himself or by another officer, acting under his instructions, "making such inquiries and taking such steps as are necessary or desirable for investigating the source of infection, preventing the spread of infection and for removing conditions favourable to infection."

To these already numerous and onerous duties are now generally added the additional functions involved by the Education (Administrative Provisions) Act of 1907, which brought for the first time two departments of local public administration—public health and public education—into organic connection. The functions of the school medical officer include :—

(1) Reporting on the working and effect of any arrangements made for educating children at an "open air school," school camp or other place selected with a view to the improvement of the health and physical condition of the children.

(2) Advising or approving the closure of a school under article 45 (b).

(3) Authorising the exclusion of certain children from a school on specified grounds under article 55 (b) which will be regarded as "reasonable grounds" under article 53 (a).<sup>2</sup>

The Board of Education aim at "the concentration and organisation, in the department of the school medical officer, of all matters of school hygiene, including medical

<sup>1</sup> Public Health (Tuberculosis) Regulations, 1912.

<sup>2</sup> Education Code, 1908, art. 44 (g).



inspection under the Act of 1907, and they assume that the school medical officer will, in addition to performing the specific functions assigned to him by the Code, also be made responsible by the local authority for supervising and controlling the general work of medical inspection."<sup>1</sup>

It is obvious that it is only in the smaller districts where the medical officer of health can expect or be expected personally to perform all of his duties. As the districts grow larger and more populous more and more of his work must be delegated to others acting under his control and supervision ; he tends to become an advisory and administrative officer rather than an executive officer. And the test of his capacity will be how far he can command, organise, and control a staff of specialised officials without having to be troubled with the details of their every-day duties. To this point we must return after dealing with these officials.

<sup>1</sup> Circular (596) of the Board of Education, August 17th, 1908.

## CHAPTER IX.

### THE INSPECTOR OF NUISANCES.

THIS title is now a misnomer. As will be seen from the statement of the duties of an inspector, his functions have far outgrown those which in the early days chiefly pertained to the abatement of public nuisances. This fact has been recognised so far as the metropolis is concerned ; there the officer is much more correctly designated as sanitary inspector. The title was first applied to the officer of the nuisance committees which were formed early in the last century in various districts under powers obtained by local Acts. The Report on the Health of Towns<sup>1</sup> mentions the rare case of Ashton-under-Lyne, where " the water, drainage, sewerage and cleansing is good," and although there are " no stated periods for cleansing the streets, the inspector of nuisances, who is a responsible officer, is armed with authority and adequate powers under a local Police Act to take strict cognizance of the scavenging of the town, and enforces, in cases of necessity, the proper cleansing of all thoroughfares, courts and alleys, and the removal of all public nuisances within the town boundary." In 1847 an inspector of nuisances was appointed under a private Act at Liverpool,<sup>2</sup> and Dr. Simon, on taking up his appointment as medical officer of health for London, instituted a methodical sanitary superintendence of all the poorer parts of the city by means of district nuisance inspectors.<sup>3</sup> Twenty years after the passing of the Public Health Act, 1848,

<sup>1</sup> Report of the Royal Commission on the Health of Large Towns, 1844.

<sup>2</sup> Liverpool Sanitary Act, 1846, s. 124.

<sup>3</sup> Miss Hutchins, " The Public Health Agitation," p. 118.

police officers were acting as inspectors at such places as Manchester and Oldham, the relieving officer at Chichester and a tradesman of the town of Tunbridge acting in similar capacities in those places, whilst at Stow-on-the-Wold there was "no inspector of nuisances, which abound without ever being abated."<sup>1</sup> The name continues stamped with legal recognition by the Public Health Acts and the official approval of the Local Government Board, in spite of efforts of the Sanitary Inspectors' Association to secure a change to fit the present duties.

Every urban and rural district council is required to appoint an inspector of nuisances, and any of the latter may appoint more than one if necessary,<sup>2</sup> but some urban district councils have overcome a somewhat useless and undesirable restriction by obtaining, by means of a local Act, powers to appoint more than one.<sup>3</sup> There is no limit to the number of assistant inspectors who may be appointed, but their powers are very limited, and their appointment is not encouraged by the repayment of half their salaries. As in the case of medical officers of health, small districts are permitted by law<sup>4</sup> and encouraged by the Local Government Board to combine for the appointment of a fully-qualified officer who will devote his whole time to the duties of inspector of nuisances; but this power is not taken much, probably not sufficient, advantage of, since the Board report that "in the total 1,854 districts there are 1,986 inspectors of nuisances holding 2,072 appointments—1,752 under the Board's sanction, and 320 without such sanction."<sup>5</sup>

<sup>1</sup> Second Report of the Royal Sanitary Commission, 1871. Analysis of Evidence in Vol. II.

<sup>2</sup> Public Health Act, 1875, ss. 189 and 190.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. xliii.

<sup>4</sup> Public Health Act, 1875, s. 191.

<sup>5</sup> Forty-second Report of the Local Government Board, Part III., p. xliii. The President of the Local Government Board, replying to a question in the House of Commons on June 15th, 1914, stated that there were 298 male and 29 female sanitary

From a Return made by the Local Government Board to an order of the House of Commons it appears that on August 6th, 1914, no less than 983 districts (excluding those with more than one inspector of nuisances) had an inspector of nuisances who did not give his whole time to that office. In most of these cases the inspector held another public office, generally that of surveyor, and had no private employment, but in 178 cases he was in private practice or employment, usually as an architect, surveyor or builder, which it is almost unnecessary to point out is a most undesirable combination.<sup>1</sup>

The duties of the inspector of nuisances are prescribed in the Sanitary Officers (Outside London) Order, 1910, and the Sanitary Officers (Ports) Order of the same year, the latter imposing the same duties with variations necessary to the nature of the circumstances dealt with. They are as follows :—

- “(1) Subject to the directions of the council, he shall perform, under the general supervision of the medical officer of health, all the duties specially imposed upon an inspector of nuisances by the Public Health Act, 1875, or by any other statute or statutes, or by the orders issued by us, so far as the same apply to his office.
- “(2) He shall attend all meetings of the council, or of committees of the council, when so required.
- “(3) He shall by inspection of his district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed in respect of the nuisances existing therein that require abatement.
- “(4) On receiving notice of the existence of any nuisance within his district, or of the breach of any bye-laws or regulations made by the council for the suppression of

inspectors in the metropolis, in addition to 21 whole-time health visitors and 16 female sanitary inspectors who devoted part of their time to health visiting.

<sup>1</sup> “Return of the Inspectors of Nuisances in England and Wales who do not give their whole time to that office, showing as regards each officer (a) the area and population of his district; (b) his remuneration as inspector of nuisances; and (c) his other public or private employments” (430, August 6th, 1914).

nuisances, he shall, as early as practicable, visit the spot, and inquire into such alleged nuisance or breach of bye-laws or regulations.

- “(5) He shall report to the council any noxious or offensive businesses, trades, or manufactories established within his district, and the breach or non-observance of any bye-laws or regulations made in respect thereof.
- “(6) He shall report to the council any damage done to any works of water supply, or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling by gas, filth, or otherwise, of water used or intended to be used for domestic purposes.
- “(7) He shall from time to time, and forthwith upon complaint, visit and inspect the shops and places kept or used for the preparation or sale of butchers' meat, poultry, fish, fruit, vegetables, corn, bread, flour, milk, or any other article to which the provisions of the Public Health Acts in this behalf apply, and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, or other article as aforesaid, which may be therein ; and in case any such article appear to him to be intended for the food of man, and to be unfit for such food, he shall cause the same to be seized, and take such other proceedings as may be necessary in order to have the same dealt with by a justice. He shall also take such action as it may be necessary for him to take by virtue of the provisions of the Public Health (Regulations as to Food) Act, 1907, and any regulations made thereunder : Provided that in any case of doubt arising under this paragraph, he shall report the matter to the medical officer of health, with the view of obtaining his advice thereon.
- “(8) He shall, when and as directed by the council, procure and submit samples of food, drink, or drugs suspected to be adulterated, to be analysed by the analyst appointed under the Sale of Food and Drugs Act, 1875, and upon receiving a certificate stating that the articles of food, drink, or drugs are adulterated, cause a complaint to be made, and take the other proceedings prescribed by that Act.
- “(9) He shall give immediate notice to the medical officer of health of the occurrence within his district of any infectious or epidemic disease ; and whenever it appears to him that the intervention of such officer

is necessary in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall forthwith inform the medical officer of health thereof.

- “(10) He shall, subject to the directions of the council, attend to the instructions of the medical officer of health with respect to any measures which can be lawfully taken by an inspector of nuisances under the Public Health Act, 1875, or under any other statute or statutes, or under any regulations issued by us, for preventing the spread of any infectious or epidemic disease.
- “(11) He shall enter from day to day, in a book to be provided by the council, particulars of his inspections and of the action taken by him in the execution of his duties. He shall also keep a book or books, to be provided by the council, so arranged as to form, as far as possible, a continuous record of the sanitary condition of each of the premises in respect of which any action has been taken under the Public Health Act, 1875, or under any other statute or statutes, or under any regulations issued by us, and shall keep any other systematic records that the council may require.
- “(12) He shall at all reasonable times, when applied to by the medical officer of health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of inspector of nuisances relate.
- “(13) He shall, if directed by the council to do so, superintend and see to the due execution of all works which may be undertaken under their direction for the suppression or removal of nuisances within his district.
- “(14) He shall, if directed by the medical officer of health to do so, remove, or superintend the removal of, patients suffering from infectious disease to an infectious diseases hospital, and shall perform, or superintend, the work of disinfection after the occurrence of cases of infectious disease.
- “(15) He shall, if directed by the council to do so, act as officer of the council as local authority under the Diseases of Animals Acts, 1894 to 1909, the Canal Boats Acts, 1877 and 1884, and under any orders or regulations made thereunder.
- “(16) He shall, as soon as practicable after the thirty-first

day of December in each year, furnish the medical officer of health with a tabular statement containing the following particulars :—

- (a) the number and nature of inspections made by him during the year ;
- (b) the number of notices served during the year, distinguishing statutory from informal notices ;
- (c) the result of the service of such notices.

“(17) In matters not specifically provided for in this Order, he shall observe and execute any orders and directions which may be hereafter issued by us, and the lawful orders and directions of the council applicable to his office.”

The characteristic of these duties is their great variety and the consequent versatility required of the inspector. He must be something of a builder, a plumber, a butcher, a doctor, a veterinary surgeon, a lawyer and a clerk, and withal possess tact, patience, and courtesy to enable him to deal with people of all grades from the slum-dweller to the professional agent or surveyor of the slum-owner.<sup>1</sup> And for all this few can hope to attain to a higher salary than £200 per annum, the average probably falling somewhere about £120.<sup>2</sup>

To attract men of better calibre than would otherwise be possible it is frequently arranged to combine the office of inspector of nuisances with some kindred office or offices. The Public Health Act, 1875,<sup>3</sup> specially provides that the same person may be both surveyor and inspector of nuisances, and the Local Government Board enumerates the following offices as those which may be most conveniently combined with the office of inspector :—Inspector under the Infant Life Protection Act, inspector

<sup>1</sup> Compare speech by Sir J. Crichton Browne, reported in *Local Government Chronicle*, February 14th, 1914, p. 151.

<sup>2</sup> See tabulated statement relating to classification and salaries of inspectorial staffs of districts in and around London, prepared by author and published in the *Municipal Journal*, May 20th, 1911, pp. 467-8 ; and for provinces, an unpublished statement compiled at King's Norton in December, 1905.

<sup>3</sup> Section 192.

under the Shop Hours Act, inspector for certain purposes of the Factory and Workshop Act, assistant officer under the Unsound Food Regulations, superintendent of scavenging and officer for the purposes of the Housing (Inspection of District) Regulations.<sup>1</sup> The office of surveyor of highways is expressly omitted, and sanction to such combined appointment is only given in special circumstances. Other offices are, however, occasionally combined, such as gas, water and sewage works manager, and inspector under the Petroleum Acts and of hackney carriages.<sup>2</sup> It is to be noted, however, that, with the exception of the post of officer under the Housing (Inspection of District) Regulations, a moiety of the salaries of these offices is not repayable by the county council. This fact tends to induce sanitary authorities to place the salary of inspector of nuisances at the highest possible proportion of the total in order to receive a larger reimbursement.

In the larger sanitary areas the tendency is reversed. Instead of concentrating numerous duties upon one officer, not only are different officers appointed for each office, but the various duties of the inspector of nuisances are themselves split up amongst officers who are specialists in each particular branch of the work.<sup>3</sup> Thus, there are to be found in most important districts inspectors appointed to devote their time solely to work under the Food and Drugs Acts, as food inspectors or as smoke inspectors, the district inspectors being usually left with the residue of duties in their particular districts, but occasionally exercising power concurrently with the special inspector, although over a more limited area, such as a ward or other

<sup>1</sup> Memorandum of the Board in regard to the Appointment of Inspectors of Nuisances, December, 1910.

<sup>2</sup> For examples of combination of offices see advertisements in the *Sanitary Record*, *Municipal Journal*, *Local Government Chronicle*, and *Local Government Journal*, and Return (mentioned above) relating to Inspectors of Nuisances (430, August 6th, 1914).

<sup>3</sup> See Chapter VII.



division of the district for sanitary purposes. This specialisation is pushed very far in some districts, and it is possible that its obvious advantages may be somewhat counterbalanced by the multiplicity of officials thus created tending to arouse the feeling of being "inspected to death" which finds occasional expression in the Press.<sup>1</sup>

The introduction of the female inspector and, to some extent, the health visitor is due to this tendency to specialisation. The "special and delicate nature" of some of the duties imposed upon public health departments by the Factory and Workshop Act of 1891 resulted in the appointment of a woman inspector of workshops at Nottingham in 1892, whilst in 1895 Islington created a precedent by appointing a woman with the legal status of sanitary inspector. In 1911 forty-two women had been appointed as sanitary inspectors in London, and nearly a hundred as assistant inspectors of nuisances and over two hundred as health visitors in the provinces. In London, by the London County Council (General Powers) Act, 1908, the appointment of health visitors was legalised and made subject to regulations made by the Local Government Board in September, 1909, which prescribed their qualifications, mode of appointment, duties, salary, and tenure of office; and, what was most important, the repayment of half their salaries by the London County Council to the borough councils was freed from doubt and possible disallowance by the Local Government Board auditor. The advantage thus given to the metropolis is a double one, for not only can the metropolitan boroughs appoint and receive a moiety of the salaries of as many inspectors as are required, but may appoint officers to give "advice as to the proper nurture, care and management of young children, and the promotion of cleanliness," whereas, in the provincial urban districts, where such work

<sup>1</sup> Compare the author's "A Plea for the Efficient Organisation of Local Administration" in *Westminster Review*, October, 1911.

is equally necessary, the repayment of half the salary is limited to one officer only—the inspector of nuisances. On March 31st, 1913, twenty metropolitan borough councils had appointed thirty-two health visitors under the Health Visitors (London) Order, 1909.<sup>1</sup>

An interesting memorandum issued by the Women Sanitary Inspectors' Association gives the following information about the duties of women sanitary inspectors in London and women assistant inspectors of nuisances and health visitors in the provinces <sup>2</sup> :—

“ Women sanitary inspectors are usually appointed with definitely stated duties more or less of a special character, and are as a rule under the direct supervision of the medical officer of health. These duties may comprise any or all of the following :—

“ A. (1) The enforcement of the provision in factories of suitable and sufficient sanitary accommodation in the way of sanitary conveniences in accordance with the requirements of the Public Health Acts, and the order of the Secretary of State, dated February 4th, 1903.

“ (2) The carrying out of the provisions of the Public Health and Factory and Workshop Acts, with regard to the registration and inspection of—

(a) Laundries, workshops and workplaces (including kitchens of hotels and restaurants) where women are employed ;

(b) Outworkers premises.

“ (3) The inspection of tenement houses and houses let in lodgings and the enforcement of the bye-laws of the sanitary authority relating to the same.

“ (4) House to house inspection in the poorer parts of the district.

“ (5) The inspection of sanitary accommodation for shop assistants, sleeping accommodation in business houses, and public lavatories for women.

“ (6) The inspection of infant and girls schools according to the legal powers of the local authorities.

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. lv. See also note 5, p. 83.

<sup>2</sup> Reproduced from the “ Public Health Service Directory ” and issued March, 1911.

“(7) The carrying out of the duties and inspection in connection with—

(a) Notifiable infectious disease, such as scarlet fever, &c.

(b) Non-notifiable infectious disease, such as measles and whooping-cough, &c.

(c) The Public Health (Tuberculosis) Regulations Order, 1908, and the voluntary notification of consumption.

“(8) Taking samples under the Food and Drugs Acts.

(It is exceptional for this work to be given to women.)

“B. In addition to the above the following duties may be required in the provinces :—

“(1) Work relating to the administration of the Midwives Act, 1902 (in cases where the county council have delegated its powers under the Act to the district council).

“(2) The inspection of shops under the Shop Hours Acts, 1892—1894, and the Seats for Shop Assistants Act, 1899.

(In London, except in the City, the duties in this section, as well as the inspection of employment agencies where sleeping accommodation is provided, are undertaken by special inspectors appointed by the London County Council.)

“C. *Health Visiting*.—Work in connection with the reduction of infantile mortality.

“(1) Notification of Births Act, 1907. The visiting of infants and the giving of advice to mothers as to the feeding and general management of young children.

“(2) Advising expectant mothers on the management of their health and as to the influence of ante-natal conditions on their infants.

“(3) Work in connection with milk depôts and infant consultation centres.

“(4) To promote general cleanliness in the home and note sanitary defects remediable under the Public Health Acts.

“(5) Investigation of deaths of infants under one year of age.

“(6) Lecturing at mothers' meetings, girls' clubs and at factories during the dinner hour.

“(7) Organising the voluntary health workers in the district and arranging their work.

“D. Work in connection with the medical inspection of school children.”

The duties of a health visitor in London are defined in the Health Visitors (London) Order, 1909, as follows :—

“ Article VIII.—In addition to the duties specified in the Act as the purpose for which a health visitor may be appointed, the duties of every health visitor shall be as follows ; that is to say—

- “ (1) The health visitor shall, in relation to each person visited, enter on a suitable card or in a book to be called ‘ the health visitor’s report book ’ all such particulars as the sanitary authority or the medical officer of health require to be ascertained and recorded, and shall submit the cards or health visitor’s report book to the sanitary authority or the medical officer of health so often and at such times as may be required, and, subject to the directions of the medical officer of health, shall keep the cards arranged so that any card may be readily available for reference at any time when the card is not in use for the purpose of a visit.
- “ (2) The health visitor shall, under the direction of the medical officer of health, discharge such duties, not being duties of a sanitary inspector, as may be assigned to her by the sanitary authority in connection with and for the purposes of the administration by the sanitary authority of any public and general Act or local and personal Act under which powers are conferred or duties are imposed upon the sanitary authority with respect to matters relating to public health, the housing of the working classes, and the notification of births, or of any bye-laws or regulations made under any such Act.
- “ (3) The health visitor shall discharge such duties in substitution for, or in addition to, any duties assigned to her under the paragraph numbered (2) in this article in connection with any of the Acts, bye-laws or regulations mentioned in that paragraph, or in connection with other Acts, bye-laws or regulations as may be prescribed by us, whether generally, by further regulations made by us in pursuance of the Act, or, in the case of any particular health visitor, by an instrument issued by us in that behalf under our hand and seal.
- “ (4) The health visitor shall observe and execute, in regard to matters not specifically provided for in this Order

any such instruction issued by us and any such order or direction of the sanitary authority of the medical officer of health as may be applicable to her office."

The main difference between the woman inspector of nuisances and the health visitor is that the former is clothed with statutory duties and powers for enforcing the public health laws, whilst the latter is simply an advisory officer relying on tact, discretion and persuasion to secure the improvements sought. In the memorandum just quoted it is urged that the appointment of women as health visitors rather than as assistant inspectors of nuisances has acted prejudicially against the woman official by—

(1) Denying her a legal status recognised under the Public Health Acts.

(2) Depriving her of the right of entry to premises where nuisances were believed to exist.

(3) Lessening her direct responsibility.

(4) Narrowing down her scope of work by making her merely an advisory officer without the power to enforce compliance with the Public Health Acts, both on the part of the landlord and the tenant.

(5) Creating a new class of officials, unknown to the poor, on a lower scale both with regard to status and salary.

(6) By making possible the appointment of women with inadequate training and insufficient knowledge of sanitation and public health laws.

These arguments appear to be begging the question in favour of the inspector of nuisances as against the health visitor. They quite ignore the fact that health visiting is not a specialisation, but an extension and rounding off of an inspector's work. "The work of the health visitor does not trench on the work of the sanitary inspector ; she is not an inspector in any sense of the word, her functions are those of a friend of the household to

which she gains access.”<sup>1</sup> It is really the creation of “a new class of officials,” intended to fulfil a function which no amount of legal status and power will enable them to carry out if they are unable to do so by cultivating a friendly relation with the poor and so gaining their confidence and trust; and the health visitor has just as much—or just as little—right of entry as the inspector of nuisances, since such right is given to “the local authority or any of their officers.”<sup>2</sup>

If overlapping and friction are to be prevented it is essential that the duties of health visitors should be co-ordinated with, not super-imposed upon, those of the inspectors of nuisances. It is obviously unsatisfactory to have one officer to seek out nuisances and secure their abatement within a given area and at the same time another official health visiting, but also inspecting and serving notices for the abatement of nuisances within the same area and frequently in connection with the same premises. It would appear that the best arrangement is a complementary and reciprocal relationship, the inspector dealing with premises and informing the health visitor where her sympathy and advice are most needed, whilst the latter deals with persons and informs the inspector of any premises requiring his attention. The methods at present in vogue of distributing duties and powers are, like the specialisation of the inspector's duties, very various, and must be considered as experiments out of which a coherent and scientific organisation may ultimately emerge. At the same time there appears to be no reason to think that women “with inadequate training and insufficient knowledge of sanitation and the public health laws” will be appointed as health visitors. The Royal Sanitary Institute has examined over 500

<sup>1</sup> The medical officer of health for Warwickshire in his Report for 1903, quoted in the Minority Report of the Poor Law Commission, Vol. I., p. 273 (Fabian Society, 1909).

<sup>2</sup> Public Health Act, 1875, s. 102.

women for the health visitor's certificate, and probably more for the inspector of nuisances' certificate,<sup>1</sup> so that there can be no dearth of qualified women for the posts offered for competition. And it is also true that although there is no legal qualification for provincial health visitors, neither is there for inspectors or assistant inspectors of nuisances ; but local authorities generally specify, when advertising for either, that applicants shall possess one or the other of the various qualifying certificates.

Unlike the case of the medical officer of health, there are no qualifications fixed by statute or by the Local Government Board for inspectors of nuisances, male or female, except in the metropolis, where the requirements of the Public Health (London) Act, 1891,<sup>2</sup> are now met by the possession of the certificate for inspectors of nuisances granted by the Royal Sanitary Institute prior to April, 1899, or by the certificate for sanitary inspectors granted by the Sanitary Inspectors Examination Board since that date. Most authorities, however, require applicants for the post to possess one of these certificates, and the Local Government Board refuses their sanction to the appointment where the person proposed to be appointed has neither a certificate nor previous experience.<sup>3</sup> Local authorities occasionally stipulate for the possession of other certificates of various kinds, usually of a technical character, such as the meat inspector's certificate, or certificates for plumbing or building construction, but in one recent case, a notable and desirable precedent was set up by an authority requiring a certificate indicative of a good general education. It is a somewhat tardy recognition of the fact that the day has gone by when a carpenter, bricklayer, or a plumber with the inspector's

<sup>1</sup> Handbook of the Royal Sanitary Institute, December, 1912, p. 56.

<sup>2</sup> Section 108.

<sup>3</sup> See Chapter VII. The Board have recently signified their approval of the certificate granted by the Examination Board of the Sanitary Inspectors' Association.

certificate was thought to be the only person capable of performing an inspector's duties.

In the case of women the additional qualifications usually asked for are one or some of those required to qualify for appointment as a health visitor in London. These are defined as follows <sup>1</sup> :—

“ Article I.—(1) A woman shall be qualified to be appointed a health visitor if she—

“ (a) is a duly qualified medical practitioner within the meaning of the Medical Acts ; or

“ (b) is qualified for the appointment of nurse by having undergone, for three years at least, a course of instruction in the medical and surgical wards of any hospital or infirmary, being a training school for nurses, and having a resident physician or house surgeon ; or

“ (c) is certified under the Midwives Act, 1902 ; or

“ (d) has, for a period of not less than six months, undergone in a hospital or infirmary, receiving children as well as adults, and having a resident physician or house surgeon, a course of instruction including subjects relating to personal hygiene, and holds the certificate of the Royal Sanitary Institute for Health Visitors and School Nurses, or the certificate or diploma of the National Health Society, or of any other body which may from time to time be approved by us ; or

“ (e) has, in the service of a sanitary authority, or of the council of a borough or of another urban district or of any other public body or authority in England or Wales, discharged duties which, in our opinion, are similar to those described in the Act or prescribed by these Regulations in relation to the office of health visitor, and produces such evidence as, in our opinion, suffices to prove her competency.

“ (2) Where, in our opinion, the circumstances so require, the sanitary authority may, with our consent, and subject to such conditions as we impose, appoint to the office of health visitor a woman who, though not possessing any such qualification as is prescribed by sub-division (1) of this article, has a competent knowledge and experience of the theory and practice of nurture, of the care and management of young children, of attendance on women in and immediately after childbirth,

<sup>1</sup> The Health Visitors (London) Order, 1909.



and of nursing attendance in cases of sickness or other mental and bodily infirmity."

The demand for trained and qualified men and women has given rise to organisations for training and examining aspirants to the public health service, and it is now possible to obtain, in most large centres of population, courses of study and practical demonstrations of the various sides of sanitary science and administration. Foremost among these organisations is the Royal Sanitary Institute, founded the year after the passing of the Public Health Act, 1875. It not only provides courses of training for the various offices—inspectors of nuisances, meat inspectors, and women health visitors—but has instituted examinations at various centres, and grants certificates which are recognised not only in the British Isles, but in India and the Colonies. In 1899 the Sanitary Inspectors Examination Board relieved the institute of the work of examining for the certificate for sanitary inspectors in the metropolis, but left it to carry on the examinations for provincial inspectors of nuisances. To this it added meat inspectors' examinations in 1899, examinations in school hygiene the following year, and in 1908 a higher examination for inspectors and one for health visitors. From 1877 to 1911 the institute examined no less than 18,703 candidates—14,690 sitting for the inspector of nuisances examination—and certified 9,726, of which numbers 1,183 sat and 628 qualified in the last year.<sup>1</sup>

The increasing amount of attention paid by the universities to social and administrative science, and the enlarged facilities offered for its study consequent upon a duplication of day lectures for evening students, is opening up to sanitary officers of all classes opportunities for obtaining a knowledge and outlook not restricted to their own department. The London School of Economics and Political Science (University of London) provides many courses

<sup>1</sup> Handbook of the Royal Sanitary Institute, pp. 56-7.

of lectures upon public administration and social science,<sup>1</sup> and at the Liverpool School of Social Science, in addition to regular courses of lectures, arrangements have been made to meet the needs of certain types of workers, including sanitary inspectors and health visitors, for whom separate provision has proved to be advisable.<sup>2</sup> This is an excellent move, since a knowledge of social conditions and problems and of the agencies for dealing with them, and a recognition of the fact that the public health department is only one amongst many public and voluntary institutions for social betterment, is bound to increase the efficiency of the sanitary official; and the provision of such opportunities will no doubt result in local authorities demanding something more from candidates for appointments than the mere possession of a certificate of the Royal Sanitary Institute.

The figures quoted above show that the number of persons qualified to act as sanitary officers is obviously far in excess of possible requirements and is undoubtedly one of the factors tending to keep salaries low. Whilst, no doubt, there are some who have taken the examinations without thinking of applying for a post, there are many hundreds who never get the chance to exercise the knowledge patiently acquired at expense of time, thought and money. It appears desirable that some method of limiting the numbers studying and sitting for the examinations should be devised in the interests both of prospective students and those already qualified. This might take the form at present in vogue for inspectors of weights and measures, the examination qualifying for which can be taken only by persons nominated by local authorities desirous of appointing them, or a permanent panel of qualified persons might be formed and recruited annually by an open competitive examination. At present there

<sup>1</sup> See the annual calendar of the school.

<sup>2</sup> Miss E. Macadam, "The Universities and the Training of the Social Worker," in *Hibbert Journal*, January, 1914.

is undoubtedly very keen competition for vacant posts, and, although the examinations tend to become more difficult and conditions precedent to sitting have been made less easy to fulfil, a week seldom passes but what some qualified person advertises offering a period of free service or a pecuniary reward for an appointment. As long as these conditions remain local authorities will have no difficulty in obtaining officers with certificates and little incentive to offering a remuneration which is adequate for the knowledge and capacity required and the duties to be fulfilled, or sufficient to obtain and keep the best class of men.

## CHAPTER X.

### OTHER OFFICERS. DEPARTMENTAL CONTROL.

IN addition to the medical officer of health and inspector of nuisances some sanitary authorities are required to appoint other officers for the enforcement of the provisions of various Acts, but, as we have seen, in some cases the result is the endowment of the above-mentioned officers with extra powers and duties.

The option given to courts of quarter sessions and boroughs with separate police establishments to appoint analysts under the Food and Drugs Act of 1875<sup>1</sup> was transferred to county councils and boroughs with a population exceeding 10,000 by the Local Government Act, 1888.<sup>2</sup> In 1899 the power was converted into a duty, and the Local Government Board or Board of Agriculture was empowered to appoint a public analyst and depute an officer to take samples and enforce the law in the district of any defaulting local authority, and to recover the expenses incurred.<sup>3</sup> The Act of 1875 directed that a public analyst should not be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in the district for which he is appointed, but twenty-four years elapsed before proof of competency was required of such officers.<sup>4</sup> In 1900 the Local Government Board issued an order requiring analysts appointed after January 1st, 1900, to furnish documentary proof of skill and knowledge of analytical chemistry, therapeutics and microscopy. The duty of an analyst consists solely in analysing and reporting upon samples of food

<sup>1</sup> Section 10.

<sup>2</sup> Sections 3, 38, and 39.

<sup>3</sup> Food and Drugs Act, 1899, s. 3.

<sup>4</sup> *Ibid.*

and drugs submitted to him by the authority appointing him ; he is neither an administrative nor an executive officer, as some foreign observers seem to suppose.<sup>1</sup> He determines neither what nor how many samples shall be obtained, nor what action shall be taken if his report shows that they contravene the standard of purity. It thus happens that he is usually engaged in private practice and frequently acts for several local authorities, seldom appearing in his official capacity unless required as a witness at the police court. Up to March 31st, 1913, the Local Government Board had approved of the appointment of analysts in 233 districts, made up of 61 administrative counties, 75 county boroughs, 68 non-county boroughs with populations exceeding 10,000, 28 metropolitan boroughs, and the City of London.<sup>2</sup>

Another officer, who is frequently a part-time official, is the veterinary inspector, who must be appointed by the county councils, the City Corporation, and the councils of boroughs with a population exceeding 10,000 at the census of 1881, and the Hove urban authority, who are the authorities under the Diseases of Animals Act, 1894.<sup>3</sup> The local authorities are also required to appoint as many inspectors and other officers as they deem necessary, and usually designate their inspectors of nuisances to carry out the duties involved ; but the veterinary inspector must be a member of the Royal College of Veterinary Surgeons or be a veterinary practitioner with qualifications approved by the Board of Agriculture.<sup>4</sup> A peculiarity of this branch of public administration, which

<sup>1</sup> Maltbie, "English Local Government of To-day," pp. 103-4.

<sup>2</sup> Forty-second Report of the Local Government Board, Part III., p. lxiii.

<sup>3</sup> Sections 2, 3, 35 and 58. Compare the Milk and Dairies Act, 1914, s. 7. Local authorities may, and if required by the Local Government Board must, appoint or employ, singly or in combination with another local authority, one or more veterinary inspectors for the purposes of the Act and Milk and Dairies Orders, and provide facilities for bacteriological and other examination of milk.

<sup>4</sup> Diseases of Animals Act, 1894, s. 59.

partly pertains to public health and partly to agricultural economy, is the power given to the police force in each police area to execute and enforce the Act and orders made by the Board of Agriculture, and for that purpose to stop, question, detain, and apprehend persons engaged in committing an offence against the Act.<sup>1</sup>

The authorities designated as local authorities under the Diseases of Animals Act of 1894 are also required to enforce the provisions of the American Gooseberry Mildew (Fruit) Order of 1912, and for that purpose to appoint such inspectors or other officers as may be necessary.<sup>2</sup> This, again, is a case where the inspector of nuisances is usually appointed and endowed with the extra powers and duties, which are usually carried out in conjunction with the duties under the Public Health Act, 1875, dealing with the inspection, seizure, and condemnation of unsound food<sup>3</sup>; but some county councils have appointed officers specially for the duty, and in other cases the food inspectors alone are empowered to act.

For the purposes of the Shops Act, 1912, the authorities are somewhat different. In London the City Corporation and, beyond its area, the County Council are responsible, but in the provinces all borough councils and the councils of urban districts with populations exceeding 20,000, and elsewhere the county councils, are required to enforce the law and for that purpose to appoint inspectors.<sup>4</sup> For these inspectors there is no legal qualification required, and the inspector of nuisances is often appointed, but where a special officer is appointed the local authorities usually stipulate that he shall have had experience of shop life in some form or other.

Every local authority, designated by the Local Government Board as a "registration authority" for the pur-

<sup>1</sup> Diseases of Animals Act, 1894, s. 43.

<sup>2</sup> Section 10.

<sup>3</sup> Sections 116 *et seq.*

<sup>4</sup> Section 13.

poses of the Canal Boats Acts,<sup>1</sup> must employ a fit and proper person to examine and report upon canal boats for which registration has been applied.<sup>2</sup> Other local authorities whose districts include or abut upon canals are required to provide for the inspection of boats thereon. The inspectors of nuisances are often appointed for this purpose, but in the largest canal centres special inspectors perform the duties. In 1912 there were 121 registration authorities included in the 312 local authorities, whose total inspections amounted to 33,767, Liverpool heading the list with 5,048 inspections.<sup>3</sup>

Sanitary authorities have an unusual power under the Alkali, &c., Works Regulation Act of 1906.<sup>4</sup> The requirements of this Act are enforced by inspectors appointed by and responsible to the Local Government Board, but the local authority may, if they deem it desirable, apply to the Board for the appointment of an additional inspector to act within their district, on condition that they provide not less than one-half the salary of the inspector over whom they exercise no control. There does not appear to be any instance of local authorities taking advantage of this power.<sup>5</sup>

The first appearance of a division of labour and a specialisation of function in a public health department is usually the appointment of a clerk to relieve the medical officer of health and the inspector of nuisances of the great and increasing amount of clerical work involved by their duties. And as the work and staff of inspectors and other officers increase so the clerical assistants become more numerous and in their turn specialised. The result is that there are to be found,

<sup>1</sup> Canal Boats Act, 1877, s. 7.

<sup>2</sup> Canal Boats Order, 1878, s. 2.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. 59.

<sup>4</sup> Section 14.

<sup>5</sup> Forty-second Report of the Local Government Board, Part III., pp. lxxvii. *et seq.*

in the most important offices, clerks for dealing with correspondence, notifications of disease, notices, registration and records, and statistics, acting under the general supervision of a chief clerk responsible to the medical officer of health ; but some of these are, in the frequent cases where the inspector of nuisances occupies a co-ordinate position, under the control of that officer. Until recently the clerical assistants, however efficient and instructed they might become, had no opportunity of obtaining a diploma or certificate indicative of their knowledge other than the certificate of the Royal Sanitary Institute for inspectors of nuisances. Many have obtained this certificate, but now the National Association of Local Government Officers, in a well-thought-out scheme of examinations for officers engaged in various departments of local government, have included an examination for clerks in the public health service. The scheme provides for a preliminary examination in the absence of a certificate indicative of a good general education, and then follow two examinations of progressive difficulty and comprehensiveness, on the actual work of a public health department, conducted by officers of high standing and experience in the public health service. Certificates are given for each, and success at the intermediate examination entitles the clerk to become an associate of the association (A.L.G.A.), and at the final, to become a fellow (F.L.G.A.).

The syllabus of these examinations, which are quite a new development in local government, are of considerable interest. They are set out in the official prospectus as follows :—

“ CLERKS IN PUBLIC HEALTH, SANITARY AND  
CLEANSING DEPARTMENTS.

“ *Intermediate Examination.*

“ Health office routine and correspondence ; methods of registering infectious diseases, and action taken in connection



therewith ; regulations respecting lodging-houses, slaughter-houses, bakehouses, restaurants, premises where human food is prepared for sale, tents, vans, sheds, canal boats, offensive trades, dairies, cowsheds, milk-shops and drainage ; the keeping of records in connection with Food and Drugs Acts, and the inspection and abatement of nuisances ; methods and records of collection and disposal of refuse.

*“ Final Examination.*

“ The administration of public health and sanitary departments, including the preparation of charts, reports (special and annual), tabled statements, statutory and informal notices, disinfection of premises, removals to hospital, &c., visitations, house-to-house inspections, preparation and issue of posters and warning notices, advice as to feeding of infants, as to consumption, &c. ; collection and disposal of refuse ; records and office routine in connection with nuisances and notices ; a general knowledge of the various Acts bearing upon public health (Public Health Act, 1875, and amendments thereof) ; Workmen’s Compensation Acts ; Employers’ Liability Act ; procedure, prosecutions, leading cases ; administration of hospitals ; work of a school medical officer ; methods of medical inspection of school children.”

The question of the control of the sanitary departments of the different authorities has been for some time exercising the minds of the chief officials concerned—the medical officer of health and the inspector of nuisances ; that friction has resulted is from time to time made manifest,<sup>1</sup> and has given reasons for the authorities in many places reviewing the position and reorganising the department.

The Public Health Act of 1875 appears to have been framed with the intention of creating two officers with co-ordinate powers ; indeed, the medical officer is deliberately omitted from section 266, which specifies that where notices, orders, and other documents require authentication by the local authority the signature of the clerk, surveyor, or inspector of nuisances shall be sufficient,

<sup>1</sup> See Report of Local Government Board Inquiry at Ilford in *Ilford Recorder*, July 11th and 18th, 1913.

although an earlier section invests the medical officer of health with any of the powers with which an inspector of nuisances is invested by the Act<sup>1</sup>; and the orders of the Local Government Board dealing with the duties of these officers invariably gave the medical officer of health a general, not a special, supervision over the activities of the inspector of nuisances. So long as areas were comparatively thinly populated this worked quite well. The medical officer of health, usually a busy private practitioner, interfered little, and the inspector enjoyed practical immunity from official control; this condition of affairs still obtains in such districts. But in the more populous areas, with increased and specialised staffs and a highly-qualified and whole-time medical officer of health, the councils found it necessary to define the functions and relations of the two chief statutory officers. In many, perhaps most, districts the old conditions were maintained, each officer being responsible for his own staff and the performance of the duties allocated to him, attending the committee and council meetings and reporting directly to them, but working in harmonious and close relationship for the good health of the district. Of late years, however, a decided tendency has shown itself to depress the status of the inspector of nuisances and to correspondingly increase his subordination to the medical officer of health, and whilst, on the grounds of economy and the necessity for having one responsible departmental head, this is often justified, it is felt strongly and widely amongst inspectors that the greatest factor is professional ambition, and that the tendency has gone too far.<sup>2</sup> That this feeling is not without some justification was shown by a proposal put forward a few years ago that young public health practitioners should be appointed as chief inspectors in order to gain experience

<sup>1</sup> Section 191.

<sup>2</sup> See *Sanitary Record*, February 13th, 1914, query 7,185, p. 174, and letter from the Local Government Board to Ilford council, published in the *Stratford Express*, January 17th, 1914.

to qualify them for the office of medical officer of health. The suggestion met with the condemnation it deserved, but there is ample evidence that strong influences are still working in favour of the medical officer of health and against the inspector of nuisances in the facts that the latter is not even mentioned in the Housing and Town Planning Act and Orders and the Public Health (Unsound Food) Regulations issued in 1908, and that wherever any reorganisation takes place every effort is made to eliminate the chief inspector and to make the inspector of nuisances quite subordinate to, and related to the local authority and the Local Government Board only through, the medical officer of health.

Present methods of departmental control appear, therefore, to fall into three classes :—(a) Those in which the two statutory officers, with or without separate staffs, exercise co-ordinate powers and are separately responsible to their authority ; (b) those in which the medical officer of health is ultimately responsible to the authority, but exercises a general control over the sanitary staff through a chief inspector of nuisances who is responsible to him for the work of the inspectorial department ; and (c) those in which the medical officer of health is solely responsible to the authority and exercises direct personal control over every inspector and other member of the staff, each of whom is responsible to him for their own work. The first method undoubtedly serves its purpose admirably in the minor districts, especially where the medical officer is only a part-time officer or where he holds several combined offices the duties of which suffice to occupy his whole time. The second method is that to which the first may be expected naturally to lead as the district gets more populous, the work of the department increases, and the staff becomes larger and more specialised. The medical officer of health may be expected to be a man of considerable attainments and experience, and as such will realise the desirability

of centralising control over a staff having graduated responsibility in its separate departments. It is the method followed in all great business and industrial concerns ; a responsible chief having subordinate departmental heads with wide discretion and ample powers. The remaining method is condemned by the canons that justify the latter, and the more populous the area, the greater and more specialised the work and staff become, the greater is the condemnation. A highly qualified, experienced, and paid medical officer of health who attempts adequately to supervise the details of the work of each member of his staff is undertaking labour which cannot be justified on any grounds, least of all on those of economy or efficiency of administrative effort. He tends to become overwhelmed with details, worried with petty affairs that he ought never to hear of and with petty officers he ought seldom to see, and in consequence his capacity as an administrator is impaired, as he lacks the time and leisure to make those broad surveys and plans of organisation upon which the ultimate efficiency of the department depends. His position may be likened to that of Parliament ; every year brings fresh duties and an extended application of those existing, the machine becomes congested, and devolution becomes essential.

“ The classification of functionaries should correspond to that of subjects, there should not be several departments independent of one another to superintend different parts of the same natural whole. . . . The entire aggregate of means provided for one end should be under one and the same control and responsibility.” <sup>1</sup>

In the case of the public health service this is possible ; the more so since the method of organisation invariably depends upon the medical officer of health, the natural and logical head of the service. It may, therefore, be confidently expected, despite contrary tendencies, that

<sup>1</sup> J. S. Mill, “ Representative Government ” (Everyman Edition), pp. 331-2.

sooner or later ordinary business principles will prevail, and that the public health departments will be organised in a series of sub-departments each with a chief responsible to and controlled by the medical officer of health.

The third system has another disadvantage which is, perhaps, not quite so evident. To remove the stimulus to ambition and the opportunity of improving his position, and to deprive him of openings for the exercise of power and initiative is harmful to the employee, whether he be workman or official, and equally so to the employer, whether it be a private business or a council. If there be no incentive to increased knowledge and efficiency they will seldom be secured ; to write " abandon hope of advancement all ye who enter here " over the portals of a profession must ultimately act as a deterrent to the best quality of men and affect the general level of capacity in the service. That this is not obvious among sanitary inspectors is not evidence that the factor is not at work. The organisation of departmental control is in a transition stage, and its results upon the position of inspectors are not yet apparent enough to affect lay aspirants ; but the public health service has need of the best men and women, and these will not be secured where hope and opportunity are denied them.

There are fortunately two factors which may weigh strongly in favour of the second method of control when reorganisation is based on scientific lines. The first is the inherent incapacity of any one man to efficiently check and control every individual of a large and specialised staff ; sooner or later the limit must be reached in all districts. The second is the ease with which the work of a public health department can be divided into sub-departments with chiefs under the control of the medical officer of health. Work under the Factory and Workshop, Shops, and Employment of Children Acts naturally forms one department of activity ; the inspection of slaughter-houses, dairies, cowsheds and milkshops, food

and animals, and the sampling of foods may reasonably be comprised in another sub-department, leaving general sanitary inspection and supervision as a third, and health visiting, in conjunction with the duty of investigating and dealing with infectious disease, as a fourth. The clerical work of each should be separate, but the results collated and classified by a staff dealing also with the general clerical work of the department. This classification is suggestive rather than dogmatic, and indicates the lines along which many well-organised departments have been developed.<sup>1</sup>

<sup>1</sup> Interesting papers upon the subject-matter of this chapter may be found in "Problems of Local Government," notably "Sanitary Administration in Towns in England," by C. Porter, M.D., B.Sc., M.R.C.P., and "Rural Sanitary Administration in England," by F. E. Fremantle, M.A., B.M., D.P.H., and by Messrs. F. Sowerbutts, J. T. Davies and J. G. Banks in the *Sanitary Journal* for November, 1913, and by Mr. T. Foley Cass in the same journal for June, 1914.

## CHAPTER XI.

### THE POWER OF COMPLAINT.

So far we have seen that in order to remove or prevent the occurrence of conditions which harmfully affect health, and to prevent the spread of disease when such efforts have not warded it off, Parliament has established a system of local authorities having varied and extensive powers and duties and enabled, where it has not required, them to appoint a staff of officials to do the actual work. It is now necessary to inquire in what ways the activities of these officials originate.

The answer to such an inquiry is to be found partly in the orders of the Local Government Board which enumerate the duties of the medical officer of health and the inspector of nuisances, partly in specific requirements of various Acts of Parliament, and partly in the powers of complaint given to various classes of persons generally and in specific cases by the statute law. The former two classes form the basis of the routine work of the department, whilst the last is a power given to the public—mainly to persons aggrieved—of calling the authority's or its officials' attention to matters which have not come under the official's notice during the performance of their routine duties. These duties, in the main, consist, as indicated by the title of the most numerous class of officials (inspectors), of inspection and investigation.

The medical officer of health is required to inspect his district systematically, both periodically and as occasion requires, in order to keep himself informed of conditions which are injurious to health; and a similar duty is placed upon the inspector of nuisances as regards nuisances that require abatement. Other duties involve the

systematic inspection of dairies, cowsheds, milkshops, common lodging-houses, slaughter-houses, offensive trade premises, workshops, bakehouses, food shops and food, and the observation of chimneys to see that no smoke nuisance arises. But systematic does not mean at fixed periods, although that also is necessary in several cases ; such a procedure would fail to realise the object of the law, which is to secure a constant and consistent good standard of sanitary conditions.

Local authorities are, however, frequently expressly required to provide for the inspection of their district, and, as will be seen in a later chapter,<sup>1</sup> the central Government, through the Local Government Board, is empowered to enforce these requirements. An unrepealed section of the Housing of the Working Classes Act, 1885,<sup>2</sup> requires every local authority entrusted with the execution of the laws relating to the public health and local government to put into force from time to time, as occasion may arise, the powers with which they are invested so as to secure the proper condition of all premises in their area. A later Act declares it to be the duty of every local authority to cause inspections of their district to take place in order to ascertain whether any dwelling therein is unfit for human habitation and to take proceedings where such occur.<sup>3</sup> The more recent Housing and Town Planning Act restates, with additional force, this duty, and moreover gives the Local Government Board power, which they have used, to make regulations as to the procedure of the authority and the records to be kept.<sup>4</sup> The more general duty of inspecting the district is provided in the parent Act<sup>5</sup> for the purpose of ascertaining what nuisances exist, enforcing provisions of the Act to secure their

<sup>1</sup> See Chapters XXIII. and XXIV.

<sup>2</sup> Section 7.

<sup>3</sup> Housing of the Working Classes Act, 1890, s. 32.

<sup>4</sup> Housing and Town Planning Act, 1909, s. 17, and the Housing (Inspection of District) Regulations, 1910.

<sup>5</sup> Public Health Act, 1875, s. 92.



abatement, and to secure that fireplaces and furnaces consume their own smoke.

It is evident that these duties offer adequate scope for the activities of the most energetic officials, and, without additions, could be reduced to routine. This, in fact, is in part the *raison d'être* of the specialisation of inspectorial functions in the larger towns. But even in these areas the routine work of the district inspector is more or less broken into by the receipt of a constant stream of complaints of various kinds ; and in areas where specialisation is non-existent or very slight the necessity of inquiring into the validity of complaints, investigating cases of infectious disease, and paying the frequent but irregular visits to the various regulated premises makes it extremely difficult, if not impossible, to carry out the systematic house-to-house visitation and inspection that is required by the Acts quoted.

The stream of complaints flowing into the office of a public health department is constant and often very large ; but the number of complaints received is not necessarily an indication of neglect. It is frequently quite the contrary, for in a well-administered district the officials, recognising their limitations, encourage reasonable complaints, and thus bring public-spirited citizens to their assistance in the work of keeping themselves acquainted with the sanitary conditions of their district, especially such conditions as are injurious to health. Complaints may be either written, in which case they are frequently anonymous, or verbal, and invariably receive immediate attention, although some officials have discouraged verbal complaints made to them whilst on their round of duties by referring the complainants to the office. This policy is not one to be recommended or supported ; the same fear that prompts some persons sending written complaints to remain anonymous (although it is a maxim of public health officers not to disclose the source of their information) is usually the reason for the action of those

who prefer to make the complaint to the inspector in the street.<sup>1</sup> To discourage this is to stop the source of much valuable information, and results in leaving serious sanitary defects unknown and unremedied.

A general power of complaint of the existence of a nuisance is given to any aggrieved person, any two inhabitant householders of the district, any officer of the local authority, relieving officer, constable or officer of the police force.<sup>2</sup> Similar powers are given to any person to complain of the pollution of a source of water supply used or likely to be used for drinking or domestic purposes,<sup>3</sup> and of the existence of a drain, w.c., or other sanitary convenience which is a nuisance or injurious to health.<sup>4</sup> In this last case it is essential that the complaint be in writing, as proceedings under this section would be otherwise invalid, but it may be made by the surveyor or inspector of nuisances of the local authority.<sup>5</sup>

It is a matter for regret that the power of complaint given to police officers and relieving officers, and particularly the latter, is not made more use of than it is. Both ought to be able to lend valuable assistance in this way to the local sanitary officials, and it ought to be one of the first duties of a relieving officer to ensure that persons in receipt of relief are living under proper conditions, to which end he has the power of calling in the inspector of nuisances.

Other powers of complaint are given to specified classes or numbers of people and involve distinctions which it is impossible to justify, as the fact that one person, rather than four or twelve, complains of certain conditions is no criterion of the validity or utility of the complaint. In the case of various offensive trade premises being a nuisance or injurious to health the medical officer of

<sup>1</sup> See the *Sanitary Record*, May 29th, 1914, p. 545.

<sup>2</sup> Public Health Act, 1875, s. 93.

<sup>3</sup> *Ibid.*, s. 70.

<sup>4</sup> *Ibid.*, s. 41.

<sup>5</sup> See *Wood Green Urban District Council v. Josephs*, [1907] 1 K. B. 182, referred to in note on p. 108, Lumley's "Public Health Acts" (7th ed.).

health, two legally qualified medical practitioners, or any ten inhabitants of the district are allowed to certify the fact to the local authority, who must lay complaint before a justice.<sup>1</sup> This appears to give equal power to the three classes of complainants, but in actual work does nothing of the kind. The medical officer of health is the real arbiter; without his advice and support the complaint of the others will not, as a rule, be acted upon, and, if it were, would seldom, if ever, be successful.

Under the Housing of the Working Classes Act, 1890, "twelve or more persons liable to be rated to the local rates," or "two or more justices of the peace" may complain of any insanitary area, and the medical officer of health must forthwith inspect and report to the local authority.<sup>2</sup> Section 31 of the same Act enables a complaint as to the existence of a dwelling-house which is unfit for human habitation to be made by "four or more householders" living in or near to the street wherein the house is, and the complaint must be in writing. Obstructive buildings may be the subject of a complaint by "four or more inhabitant householders of the district," but in this case a written document is not specifically required.<sup>3</sup> The slight variations in these powers contained in the same Act and intended to secure similar objects are characteristic of much sanitary legislation; they help to make the law confusing and more difficult for the layman to understand, and serve no practical purpose, however much theoretical justification they may have had.

In addition to the inhabitants and officers of a sanitary district, other authorities and officials have various powers of complaint. The factory inspector is required to give notice in writing to a local authority of any matter in a factory or workshop remediable or punishable under the Public Health Act, and he may himself enforce the

<sup>1</sup> Public Health Act, 1875, s. 114.

<sup>2</sup> Sections 4 and 5; see also Housing and Town Planning Act, 1909, s. 22.

<sup>3</sup> Housing of the Working Classes Act, 1890, s. 38.

law if the local authority do not report that they have done so within a month of receiving the complaint.<sup>1</sup> On the other hand, the medical officer of health is required to give written notice to the factory inspector of any case of the employment of a woman, young person or child in a workshop in which no abstract of the Act is affixed.<sup>2</sup> The Housing and Town Planning Act, 1909, empowers the county council, parish council or meeting, or four inhabitant householders to complain to the Local Government Board of the neglect of a rural district council to use their powers under Part II. or III. of the Housing of the Working Classes Act, 1890, similar powers being given to the county council or four householders as regards other county districts and for any other area to four householders.<sup>3</sup> The power given to urban and rural district and parish councils under the Isolation Hospitals Act, 1893, is implicitly one of complaint<sup>4</sup>; they may petition the county council to provide a hospital for infectious disease, and the county council may do so if satisfied that such an institution is necessary.

The administration of the Alkali, &c., Works Regulation Act, 1906, which consolidates and amends the Acts of 1881 and 1892, is controlled by the Local Government Board, to whom local authorities are empowered to complain if their officers or any ten inhabitants give information of any contravention of the Act. The Board is required to hold an inquiry into the matter complained of, but the fact that the Board may require the local authority to pay the expenses of such inquiry is not one to encourage complaints.<sup>5</sup>

A recent Act has given power to any medical officer of health who has reason to believe that tuberculosis is caused or likely to be caused by milk obtained from cows

<sup>1</sup> Factory and Workshop Act, 1901, ss. 5 and 14.

<sup>2</sup> *Ibid.*, s. 133.

<sup>3</sup> Housing and Town Planning Act, 1909, s. 10.

<sup>4</sup> Section 4.

<sup>5</sup> Section 22.

in another district to complain to the medical officer of health of that district. The latter officer must thereupon cause the suspected cattle to be inspected and the milk examined, giving notice of such inspection both to the complaining medical officer and the dairyman. The council of the local authority (county or county borough) must forward to the medical officer of health who complained copies of all reports made upon the cattle and milk and inform him of any resultant action taken by them.<sup>1</sup>

The National Insurance Act of 1911<sup>2</sup> has given what, on the face of it, appears to be a very formidable power of complaint against the local authority. If the Insurance Commissioners, any approved society, or an insurance committee allege that any excessive sickness among any insured persons is due to bad housing or insanitary conditions in any locality, or to an insufficient or contaminated water supply, or to the neglect on the part of any authority to observe or enforce the provisions of any Act relating to the health of the workers in factories, workshops, mines, quarries or other industries, or relating to public health, or the housing of the working classes, or any regulations made under any such Act, or to observe or enforce any public health precautions, the complainants may send to the authority alleged to be in default a claim for payment of the amount of any extra expenditure incurred as a result of such excessive sickness. If the authority and complainants fail to agree, the Secretary of State or Local Government Board may appoint a competent person to hold an inquiry. If it is shown that during a period of not less than three years before the date of inquiry, or a less period in case of an outbreak of epidemic, endemic, or infectious disease, the sickness has been more than 10 per cent. in excess of the average expectation of sickness and that the whole or part of

<sup>1</sup> Milk and Dairies Act, 1914, s. 4. One of the results of the war has been the postponement of the operation of this Act until next year.

<sup>2</sup> Section 63.

such excess is due to the alleged causes, then the local authority shall be ordered to pay over a sum to make good the expenditure arising from their neglect, and this sum may be deducted from any amount payable to the local authority out of the Exchequer Contribution Account. This power is much less formidable than it appears; a 10 per cent. excess of sickness is a very large one, and the difficulties in the way of apportioning the responsibility, except in one or two special cases, appear to be almost if not quite insuperable.<sup>1</sup> The fact that such a power exists, however, may have the effect of stimulating some authorities to greater activity, which, after all, is its main object.

The growth of a civic consciousness and the development of the idea of collective responsibility for the general well-being has given rise to many voluntary associations for collecting information on health matters and bringing to the notice of the authorities concerned any conditions which are remediable under the law. Such bodies as the Mansion House Council on Health and Housing, the Rural Housing and Sanitation Association, the Coal Smoke Abatement Society, and the various health societies and associations formed in many of the larger towns do excellent work; they receive information which would never be given to the local officials, and they are often enabled to arouse and focus strong local opinion upon negligent local authorities.

There is, therefore, no lack of means of deriving information about the sanitary condition of a district. How far they are used will depend upon the local officials; if the latter cultivate the confidence of the people, they will reciprocate by affording early information of conditions which it is the sanitary officer's duty to remove. If not, no surprise must be evinced when an outbreak of disease reveals the existence and responsibility of long-standing sanitary defects.

<sup>1</sup> See article on "Sanitary Authorities and the National Insurance Act," by the author, in the *Westminster Review*, October, 1912.

## CHAPTER XII.

### THE RIGHT OF ENTRY.

IN order to carry out their various duties it is necessary that the officials of the sanitary authority should have the right of entering and inspecting the different classes of premises, and of examining the animals and foodstuffs the condition of which may adversely affect the public health. The officials are required to keep themselves acquainted with conditions inimical to health, to search out and secure the abatement of nuisances, and to seize and obtain the condemnation and destruction of all food that is "diseased, unsound, unwholesome or unfit for the food of man"; these duties can only be performed by entering upon private property. Hence, without legal sanction, no search, inspection or examination could be adequate without exposing the officer to an action for trespass. To protect him against such action and to give him the power to effectively perform his duties the numerous statutes have given the officer the right to enter, inspect, and examine various places and things, but at the same time have carefully safeguarded the rights of individuals by prescribing certain forms of procedure. Although these powers are not always adequate and the procedure is often cumbersome and dilatory, it remains true, nevertheless, that whilst the Englishman's home is his castle he now has to lower the drawbridge to permit the sanitary officer to enter when the latter has good grounds for making the request to be allowed to do so.

It might be expected that in such a comparatively simple matter as the right of entry legislation would proceed upon a simple and uniform plan, and such an authority as Sir Courtenay Ilbert justifies this expecta-

tion.<sup>1</sup> The drafting of legislation is a specialised legal business the workers in which, whilst adhering strongly to precedent and similarity of treatment, endeavour to frame laws in as simple a manner as possible compatible with legal lucidity and certainty. The *dictum* of Bentham that "the same thing should always be done in the same way, that way being the best," ought to be indelibly impressed upon the legislator's mind, but a consideration of the statutory powers of entry given to sanitary authorities and their officers for the purpose of their work gives ample reason to doubt if draftsmen or legislators ever heard of it. In the successive efforts to secure simplicity they have succeeded in creating a complicated variety without obtaining either legal lucidity or certainty.

At the end of this chapter a partial analysis of over thirty different powers of entry and inspection is given, and it is practically impossible to say anything in general terms of them, except that there is an utter absence of system or consistency. At first glance it appears as if the Legislature intended that wherever it is imperative by reason of the circumstances to be dealt with that the inspector should have immediate entry, that should be granted on demand or a penalty incurred. It would seem to be obvious that where the only remedy for refusal to admit the inspector is for the latter to obtain an order from a magistrate, the person offending against the law, whilst refusing to allow the inspector to enter when requested, would be quite willing to do so later when confronted with a magistrate's order, since by that time his offence is removed or abated and he is no longer liable to a penalty. Yet this is the case where efforts are made to discover and deal with persons who turn or permit chemical refuse, steam, condensing water, or other liquids above a prescribed temperature to enter into any sewer; and to make matters more difficult the officer must give reasonable notice in writing to the person having custody

<sup>1</sup> Ilbert, "Legislative Methods and Forms."



of the premises he desires to enter of his intention to complain to the magistrate.<sup>1</sup> Very similar procedure, but without requiring notice of intention to apply for the magistrate's warrant, is prescribed for the case where access to the land or premises to inspect any article of imported food has been refused.<sup>2</sup>

In all cases the officer is required to have the general or special authorisation of his authority to apply for entry and to make the necessary inspection, but in some cases, notably when proceeding under section 41 of the Public Health Act, 1875, it is essential that the authority be specifically given, and its absence invalidates the subsequent proceedings. In many cases a written notice of intention to apply for entry must be given to the occupier, but apparently its absence cannot be raised by the owner as a defence against subsequent proceedings.<sup>3</sup> The Housing and Town Planning Act, 1909, is the only case where the owner, if known, must be notified, as well as the occupier, of the officer's intention to apply for entry.<sup>4</sup>

In general practice it is not necessary to fulfil the letter of the law by giving written notice ; the vast majority of inspections are carried out with the immediate consent of the occupiers, and it is only in cases where refusal to a verbal request is given or anticipated that the written notices are resorted to. In the same way, although each officer is armed with the certificate of appointment by his authority it is seldom used, tact and courtesy obviating the necessity except in the rare case of ultra-suspicious or obstinate persons.

One of the witnesses before the last Royal Sanitary Commission affirmed that "sanitary officers wish to have the right to inspect house after house in the same street systematically," and he declared that "in order to obtain

<sup>1</sup> Public Health Acts Amendment Act, 1890, s. 17.

<sup>2</sup> Public Health (First Series : Unsound Food) Regulations, 1908 (No. 718), art. VI.

<sup>3</sup> See *Bromley Borough Council v. Cheshire*, (1907) 72 J. P. 34.

<sup>4</sup> Section 36.

a magistrate's order to enter it should not be necessary to show that there is a reasonable ground for believing the nuisance to exist." The sanitary officer ought to be able to obtain power of entry "whenever in his discretion he shall think proper to do so."<sup>1</sup> Nearly forty years passed before any definite attempt was made to deal with the difficulties so ably foreseen. Officers have been burdened with duties, but left without adequate powers to perform them. It was not until quite recently that the right of entry into dwelling-houses was secured, and now it is restricted to those the rentals of which fall below a specified amount, varying according to the population of the district within which they are situated.<sup>2</sup> The duty of periodically inspecting his district—termed house-to-house inspection—which is imposed upon the sanitary officer could, apart from the above-mentioned provisions of the Housing and Town Planning Act, be rendered quite nugatory if the occupiers uniformly refused to admit him. The remedy is to apply for a magistrate's order requiring the occupier to admit the inspector,<sup>3</sup> but the case of *Vines v. The North London Collegiate School*,<sup>4</sup> which was an application for a warrant giving power to enter,<sup>5</sup> decided that some reasonable ground for entry must be shown; it is not sufficient merely to show that the official was acting honestly with a view to the discharge of his business. This rendered the right of entry inoperative except in cases where a complaint had been received or sickness, which made it probable that sanitary defects existed, had occurred. Fortunately, as already noted, tact and discretion on the part of the official, combined with indifference and, perhaps, ignorance of the law on the part of the occupiers, has made it possible for

<sup>1</sup> Second Report of the Royal Sanitary Commission, 1871 (Cd. 281): Analysis of Evidence (questions 12,421-6), p. 218.

<sup>2</sup> Housing and Town Planning Act, 1909, ss. 14 and 15.

<sup>3</sup> Public Health Act, 1875, s. 102.

<sup>4</sup> (1899) 63 J. P. 244.

<sup>5</sup> Action taken under Public Health (London) Act, 1891, s. 115.

an immense amount of systematic inspection to take place and a great deal of necessary work to be carried out in rectification of the defects found.

The prescribed times at which inspections may take place are not, as a rule, very important, but that cannot be urged as justification or an excuse for the great diversity shown by the statutes. "All reasonable times" leaves that uncertainty which is the delight of the lawyers, but this is sometimes limited by the addition of "by day" without defining "day," a separate section of a subsequent Act being needed for this purpose in the case of canal boats.<sup>1</sup> And "day," as defined in various Acts, differs; in general it is between 9 a.m. and 6 p.m., but for the purposes of the Infectious Diseases Prevention Act, 1890,<sup>2</sup> it is shortened to the period between 10 a.m. and 6 p.m., whilst the unrepealed section 9 of the Housing of the Working Classes Act, 1885, extends it to include the time between 6 a.m. and 9 p.m., variations having no practical justification which does not apply in many other cases.

When the official, having, if required, given notice of his intention to apply for admission, makes application for the opportunity of exercising his powers of inspection and is refused or in any way obstructed, he has open to him two courses of action, determined by the particular purpose for which he desires entry. In some cases he may take proceedings in a court of summary jurisdiction and recover penalties for obstruction or refusal, but in others he may only apply for an order of the court calling upon the responsible person to admit him, refusal being then met by a penalty. In either case it will be noted that the final decision rests with the court, which must be convinced that the official has the right to apply for entry, has good reasons for wishing to enter, and,

<sup>1</sup> Canal Boats Acts, 1877 (s. 5) and 1884 (s. 9), "6 a.m. to 9 p.m."

<sup>2</sup> Sections 5, 16 and 17.

having complied with any necessary procedure, has made application within the limits of time allowed. With the two not unimportant exceptions already indicated, penalties for obstruction are provided for in cases where it is essential that the officer should have instant entry. In all these cases no notice of intention to enter is necessary ; such notice would defeat the object of the statute giving the power, since it is obvious that no butcher would ever have diseased or unsound meat on his premises and no regulated premises would be dirty if the inspector notified his intention of calling.

In certain circumstances a police officer, who cannot be appointed as an inspector of nuisances,<sup>1</sup> can be endowed with such officer's powers of entry and taking proceedings in respect of nuisances. Such powers, however, do not come from the local authority. In cases where individuals complain direct to the justices of the existence of a nuisance, the justices may authorise a constable or any other person to do everything necessary to execute any order made and to recover from the person upon whom the order is made any expenses incurred thereby ; for this purpose he has the powers of an officer of the local authority.<sup>2</sup> The following section gives power to the Local Government Board to authorise an officer of police to act where the local authority neglect their duties, and empowers him to recover from the local authority any expenses incurred and not otherwise recovered. The power of entry is not given in this section by reference to the powers of the local officers, but the latter powers are, in the light of the case of *Vines v. The North London Collegiate School* quoted above, clearly if unconsciously stated by the provision that "such officer of police shall not be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent or without the warrant of a justice." This appears to

<sup>1</sup> Home Office Circular, December 2nd, 1873.

<sup>2</sup> Public Health Act, 1875, s. 105.

indicate that the decision of the courts as to the sanitary officer's right to enter is contrary to the intention of the Legislature. Neither of these powers are often used, individual complaints being usually addressed to the local authority, and the Local Government Board has other means of dealing with neglectful local authorities.

The provisions of the Public Health Act, 1875,<sup>1</sup> by which a justice's order for the removal of persons suffering from an infectious disease to a hospital may be addressed to a constable are now practically obsolete, but the same cannot be said of the powers given to local authorities, under the various Food and Drugs Acts, to empower police constables to procure samples and take the necessary subsequent proceedings.<sup>2</sup> The tendency, however, is to transfer these powers from the police officers to the inspector of nuisances or a special officer of the public health department, it being generally recognised that it is not desirable either that the police should be entrusted with what is essentially public health work or that such work should be divided between departments of local administration under the control of different chief officers.

On the whole the consideration of the statutory powers of entry illustrates the oft-quoted opinion that all legislation is to meet exceptional cases. The bulk of public health work is carried on without any explicit reference to these powers ; occasionally the officer finds it necessary to produce his authority, sometimes notice of intention to enter is needed, and on rare occasions he is compelled to take proceedings for refusal or obstruction or to assert his rights by securing the order of a justice, but such cases are lost amidst the thousands of entries and inspections that are daily made without hindrance, unpleasantness, or challenge.

<sup>1</sup> Section 124.

<sup>2</sup> Food and Drugs Acts, 1875 (s. 13) and 1879 (s. 3) ; Margarine Act, 1887, s. 10.

## POWERS OF ENTRY.

Premises.	Purpose.	Notice.	Time.	Provision for Refusal.	Statutes, &c.
Any premises or ships	To examine as to the existence of nuisances and to enforce abatement.	None .	9 a.m. to 6 p.m., or when business is in progress or usually carried on.	Magistrate's order.	Public Health Act, 1875, ss. 98, 102, 104, and 110.
Any premises .	To examine water fittings.	None .	All reasonable times.	Dealt with as breach of agreement.	<i>Ibid.</i> , s. 58.
Any premises .	To inspect and examine any animal, carcase, meat, &c., exposed or deposited for sale or intended for human food.	None .	All reasonable times.	Penalty for obstruction; magistrate's warrant.	Public Health Act, 1875, ss. 116 to 119; Public Health Acts Amendment Act, 1890, s. 28.
Any premises .	Ditto as regards horseflesh intended for human food.	None .	All reasonable times.	Penalty for obstruction; magistrate's warrant.	Sale of Horseflesh Act, 1889, ss. 3 and 4.
Occupied dwelling-houses.	To ascertain if house has a supply of water.	None .	Public Health Act, 1875, ss. 102, 103, apply.	Public Health Act, 1875, ss. 102, 103, apply.	Public Health (Water) Act, 1878, s. 7.

Any premises . . .	To examine drains, &c., of which a written complaint has been received.	24 hours' written notice to occupier, except in cases of emergency.	9 a.m. to 6 p.m.	Magistrate's order.	Public Health Act, 1875, ss. 41, 102 and 103.
Any house, premises, or building to which the Housing and Town Planning Act, 1909, s. 14, applies.	To view state and condition of house.	24 hours' written notice to tenant or occupier.	All reasonable times of the day.	Penalty for obstruction.	Housing and Town Planning Act, 1909, ss. 14 and 15; Housing of the Working Classes Act, 1890, s. 89.
Any house, premises, or buildings.	For survey, examination or valuation for purposes of the Acts.	24 hours' written notice to occupier and owner (if known).	All reasonable times.	Penalty for obstruction.	Housing and Town Planning Act, 1909, s. 36; Housing of the Working Classes Act, 1890, s. 89.
Any house, premises, or building which local authority is authorised to purchase compulsorily under Part I. or II. of the Act.	For purposes of survey and valuation.	24 hours' written notice to occupier.	All reasonable times of the day.	Penalty for obstruction.	Housing of the Working Classes Act, 1890, ss. 77 and 89.
Roads, streets, places and lands.	For purpose of making sewers.	Reasonable notice in writing to owner or occupier.	None prescribed.	Authority to commence action for a declaration of their right to enter.	Public Health Act, 1875, s. 16.

POWERS OF ENTRY—*continued.*

Premises.	Purpose.	Notice.	Time.	Provision for Refusal.	Statutes, &c.
Any lands or premises	For making plans, surveying, measuring, levelling. Making, examining, or repairing works. Ascertaining course of drains or sewers. Ascertaining or fixing boundaries.	Reasonable notice in writing to owner or occupier.	9 a.m. to 6 p.m.	Magistrate's order.	Public Health Act, 1875, s. 305.
Roads, streets, lands, and places.	For making and maintaining water mains.	Reasonable notice in writing to owner or occupier.	All reasonable times.	Authority to commence action for a declaration of their right to enter.	<i>Ibid.</i> , s. 54.
Any premises . . .	To examine whether any matter is being turned into sewers so as to cause a nuisance, or danger or injury to health.	None . . .	Any time .	Magistrate's order.	Public Health Acts Amendment Act, 1890, s. 17. (Adoptive.)
Common lodging-houses.	Inspection of premises .	None . . .	Any time .	Penalty for obstruction.	Public Health Act, 1875, s. 85.
Lodging-houses established under Part III. of Act.	Inspection of premises .	None . . .	Any time .	Penalty for obstruction.	Housing of the Working Classes Act, 1890, ss. 70 and 89.



Houses let in lodgings	To enforce bye-laws . . .	None . . .	•	All reason- able times.	Penalty for obstruction.	Public Health Act, 1875, s. 90.
Tents, vans, sheds, or similar structures . .	To enforce provisions of Act and bye-laws . . .	None . . .	•	6 a.m. to 9 p.m.	Penalty for obstruction.	Housing of the Working Classes Act, 1885, s. 9.
Any premises or vessel	To execute or superintend execution of orders of L.G.B. under s. 134.	None . . .	•	Any time .	Penalty for obstruction.	Public Health Act, 1875, ss. 137 and 140; Public Health Act, 1896, s. 1.
Any premises, ship or vessel.	To remove any person suffering from any dan- gerous infectious dis- order, and is without proper lodging accommo- dation, to hospital (certifi- cate of a medical practi- tioner and a magistrate's order required).	None . . .	•	None prescribed.	Penalty for obstruction.	Public Health Act, 1875, s. 124.
Any ships . . .	To determine whether there are any cases of cholera on board.	None . . .	•	All times .	Penalty for obstruction.	<i>Ibid.</i> , s. 130, and Regu- lations of L.G.B.
Any house or part thereof.	To cleanse and disinfect any house or part of a house or any articles likely to retain infection.	24 hours' written notice to owner or occupier.	•	10 a.m. to 6 p.m.	Penalty for obstruction.	Infectious Diseases Pre- vention Act, 1890, ss. 5, 16, and 17.
Slaughter-houses . .	To inspect premises, ani- mals or meat.	None . . .	•	All reason- able times.	Penalty for obstruction.	Public Health Act, 1875, s. 169.

POWERS OF ENTRY—*continued*.

Premises.	Purpose.	Notice.	Time.	Provision for Refusal.	Statutes, &c.
Premises used for the manufacture or sale of food.	To inspect and sample foods as authorised by Acts.	None .	All reasonable times.	Penalty for obstruction.	Food and Drugs Acts, 1875 and 1899; Margarine Act, 1887; Butter and Margarine Act, 1907.
Any lands or premises, or any ship on which food is imported.	To inspect and sample foods.	None .	All reasonable times.	Magistrate's warrant.	Public Health (First Series: Unsound Food) Regulations, 1908.
Any premises where there is believed to be imported or diseased gooseberries.	To inspect fruit and packages.	None .	Any time .	Penalty for obstruction.	American Gooseberry Mildew (Fruit) Order, 1912, ss. 8 and 9.
Any premises .	To enforce orders and regulations of L.G.B. .	None .	Public Health Act, 1875, ss. 102 and 103, apply.		Contagious Diseases (Animals) Act, 1886, s. 9.
Any land, shed, building, place, or vessel.	To enforce provisions of Act.	If required, reason for entering must be stated in writing.	Any time .	Penalty for obstruction.	Diseases of Animals Act, 1894, ss. 44, 51, and 52.
Dairies, cowsheds, and milkshops.	To inspect premises, utensils, and animals.	None .	All reasonable times.	Penalty for obstruction.	Regulations made under Dairies, Cowsheds and Milkshops Order, 1886. See also Milk and Dairies, Act, 1914.

Dairies, &c., outside district.	To inspect premises and animals if milk is suspected to be the cause of or likely to cause infectious disease.	Magistrate's order required.	Any time .	Penalty for obstruction.	Infectious Diseases Prevention Act, 1890, ss. 4 and 16. See also Milk and Dairies Act, 1914, ss. 4 and 5.
Any premises . . .	To examine cows and bovine animals.	None .	All reasonable times.	Penalty for obstruction.	Tuberculosis Order of the Board of Agriculture, 1914, s. 4.
Retail bakehouses . . .	To enforce provisions of Act.	None .	All reasonable times by day or night.	Penalty for obstruction.	Factory and Workshop Act, 1901, ss. 102 and 119.
Workshops, work-places and laundries.	To enforce provisions of Act.	None .	All reasonable times by day or night.	Penalty for obstruction.	<i>Ibid.</i> , ss. 119 and 125; Factory and Workshop Act, 1907.
Retail shops . . .	To enforce provisions of Act.	None .	All reasonable times by day or night.	Penalty for obstruction.	Shops Act, 1912, s. 13.
Canal boats . . .	To enforce provisions of Act.	None .	9 a.m. to 6 p.m.	Penalty for obstruction.	Canal Boats Acts, 1877, s. 5; 1884, s. 9.
Any premises . . .	To examine and take samples of rag flocks.	None .	All reasonable times.	Penalty for obstruction.	Rag Flock Act, 1911 s. 1.
Factories and work-shops.	To inspect lists of out-workers employed by occupier of factory or workshop.	None .	All reasonable times.	Penalty for obstruction.	Factory and Workshop Act, 1901, s. 107.

## CHAPTER XIII.

### OBJECTS AND METHODS OF INSPECTION.

THE surveys already made of the duties of the sanitary authorities and their officials and their powers of entry upon private property of various classes have disclosed the chief function of the officers of a public health department to be that of inspection. The oldest officer is the inspector of nuisances, but the powers of inspection have been extended to many things, to many places, and for other purposes than merely looking for nuisances, using the word in a sense restricted to its legal connotation. In general terms the object of inspection is the prevention of the occurrence of those conditions which are prohibited by law, their removal where they are discovered, and, in certain cases, the punishment of those persons who cause or allow them to exist.

The various classes of nuisances categorically specified in the very important 91st section of the Public Health Act, 1875, have been added to by later legislation bringing special conditions within the scope of this and the succeeding sections. The fact that the terms "nuisance or injurious to health" <sup>1</sup> are used disjunctively relieves the officer from the *onus* of proving injury in the majority of cases; "it is sufficient if the nuisance is one which interferes with personal comfort." <sup>2</sup> In addition to the conditions defined as nuisances in and by reference to the above section, there are others specifically aimed at in the same and succeeding Acts, it often happening that

<sup>1</sup> In the Public Health (London) Act, 1891, s. 2, the words are "nuisance, dangerous or injurious to health."

<sup>2</sup> *Bishop Auckland Local Board v. Bishop Auckland Iron Company* (1882), 10 Q. B. D. 138.

the inspector has a choice of proceedings in order to secure abatement. It is worthy of note that as public health legislation has developed and various new conditions have been specially prohibited, officials in their reports have included all these conditions under the head of "nuisances," although they could not be dealt with under the "nuisance" clause of the Public Health Act. The periodical cleansing of bakehouses, cowsheds, and common lodging-houses can be enforced by the sanitary authority, and each case is considered as the abatement of a nuisance, although without the special law it might not be possible to deal with them.<sup>1</sup>

Conditions causing a nuisance may arise in connection with premises, animals or things, of which the first are the most numerous and include premises which as a result of their use are subject to special regulation. Administrative efforts have been made to extend the application of the clause "premises in such a state as to be a nuisance or injurious to health" so as to include the existence of conditions on, but not of, the premises, but the courts have expressed the opinion that "it is confined to cases in which the premises themselves are decayed, dilapidated, dirty or out of order."<sup>2</sup> Other conditions, such as an accumulation of offensive matter, must be dealt with under other clauses.

The inspection of a dwelling-house, to be complete, includes a survey of the structure from top to bottom and the testing of the drains by one or the other of the various methods in use.<sup>3</sup> The defects which may possibly be discovered are enumerated in most books dealing with practical sanitation<sup>4</sup>; each defect may constitute a

<sup>1</sup> See statements of nuisances abated in the reports of medical officers of health and inspectors of nuisances. Compare list of nuisances on pp. 130-1 of the index to Lumley's "Public Health Acts" (7th ed.).

<sup>2</sup> In *Regina v. Parlbay* (1889), 22 Q. B. D. 520.

<sup>3</sup> See Reid, "Practical Sanitation" (16th ed.), p. 142.

<sup>4</sup> See Taylor, "Sanitary Inspector's Handbook," pp. 44 *et seq.*

separate nuisance, but the sum of defects may be such as to bring the house within the scope of the term "unfit for human habitation" and liable to be closed and demolished under the provisions of the Housing and Town Planning Act, 1909.<sup>1</sup> The provisions prohibiting overcrowding direct the inspector's inquiry as to the number and ages of the occupants and their relation to the number of rooms and amount of air space occupied by each family group, which may include lodgers. Unfortunately there is no legal definition of overcrowding of a dwelling, and officers are compelled to adopt standards of their own, which are not always identical; the standard for common lodging-houses of 300 cubic feet of air space per head or the more empirical one of permitting an average of two adults per room seem to find the most favour with officers engaged in the actual work. For canal boats<sup>2</sup> and factories and workshops<sup>3</sup> standards are prescribed by law, and bye-laws for the regulation of common lodging-houses and houses let in lodgings invariably fix a standard for such premises.

The keeping of animals so as to be a nuisance or injurious to health is prohibited, and the prohibition is amplified as regards one class of animals (swine), which, in an urban district, may not be kept in any dwelling-house.<sup>4</sup> These provisions give rise to much misconception on the part of the public as to their application and the consequent constant complaints of barking dogs, crowing cocks, or cooing pigeons; such things are quite outside the range of the sanitary officer's activity, as they are not remediable under the Public Health Acts. The cow, as being the source of the milk supply, is the subject of special legislation affecting its dwelling, which will be presently referred to. It is, however, interesting to note

<sup>1</sup> Sections 17 and 18.

<sup>2</sup> Canal Boats Act, 1877, s. 2, and Regulations issued in March, 1878.

<sup>3</sup> Factory and Workshop Act, 1901, s. 3.

<sup>4</sup> Public Health Act, 1875, s. 47.

that the cow occupies a more favourable position in sanitary legislation than the ordinary human being, inasmuch as a minimum air space per head is usually prescribed for it in the shed.<sup>1</sup>

The nuisances arising from conditions of things are often difficult to dissociate from places. Accumulations of refuse and other matter or dirty and offensive receptacles for the storage of organic matter frequently arise from the keeping of animals, especially in places unsuitable for them, or on trade premises where substances of animal or vegetable origin are dealt with ; either entails slightly different procedure to secure its removal. The water supply of many districts is under the control of an authority—public or private—or department other than that to which the medical officer of health or inspector of nuisances belongs, but there are many wells in various parts of the country. The sanitary officer is required to see that the supply is not only sufficient in quantity but pure in quality, and in the case of wells to take steps to prevent the pollution of the water or its use if polluted. The determination, by chemical analysis and bacteriological examination, of the purity of the water supply is sometimes, but not often, a duty of one of the medical men employed by the local authority ; in general the duty is delegated to the public analyst. The sanitary officer, however, has to decide when it is desirable to have the water tested, and upon him falls the duty of taking the sample and submitting it, together with notes of the reason for taking it and the structure and environment of the well or other source from which it was taken, to the analyst.

The prevention of pollution of rivers is not altogether disconnected from the question of water supply ; in industrial districts it entails long and monotonous watching of the banks of streams upon which manufacturing premises abut, and the careful sampling of the water to secure scientific evidence of the effect of effluents

<sup>1</sup> Local Regulations for Dairies, Cowsheds, and Milkshops.

which the vigilance of the inspector has detected. The detection of smoke nuisances requires extended and wearisome observations similar to those for the prevention of the pollution of rivers, but here the nuisance arises in a different element, and the inspector has to rely upon his own ocular evidence of the density and duration of the smoke, and his mechanical knowledge of fireplaces and furnaces, and the best means of preventing the emission of black smoke. It is increasingly becoming the practice to utilise the camera as a means of recording the emission of smoke. The length of time during which the chimney is kept under observation varies in different districts, and the period of emission of black smoke deemed to be a nuisance is subject to wide variations which cannot be referred to any cause other than the caprice of authorities or officials.<sup>1</sup> That the state of the law and its enforcement is not wholly satisfactory is recognised by the Local Government Board, who have recently appointed a departmental committee "to consider the present state of the law with regard to the pollution of the air by smoke and other noxious vapours and its administration, and to advise what steps are desirable and practicable with a view to diminishing the evils still arising from such pollution."

There are many premises, used for particular purposes, which are specially regulated. Slaughter-houses and knackers' yards may not be used until they are licensed, common lodging-houses and canal boats must be registered before use, and offensive trades may not be established in an urban district without the consent of the local authority, which in each of these cases must be satisfied that the premises are suitable for their proposed purpose. The duty of reporting upon the premises and of inspecting them at irregular intervals afterwards devolves upon the sanitary officers, who in the first case direct their attention first to the general condition of the premises and next to

<sup>1</sup> See Taylor, "Sanitary Inspector's Handbook," p. 70.



their suitability for the special purpose to which they are to be put. In the case of offensive trades this involves a consideration of the methods and machinery which are proposed to be adopted, and in common lodging-houses and canal boats of the numbers and sexes for which the cubic capacity and arrangement of the rooms and cabins are suitable. After establishment these premises and the businesses carried on therein are regulated by bye-laws or regulations providing for cleanliness of premises, utensils and implements, inoffensive storage of material, absence of overcrowding, and other details with which the inspector must be familiar. In houses let in lodgings and fruit-pickers' dwellings the object of the inspection is to ensure that the bye-laws, if any, are complied with, the same purpose, directed by regulations prescribing air space, lighting, ventilation and cleanliness of animals, utensils and premises, being behind the inspection of dairies, cowsheds, and milkshops. The object of inspecting factories, workshops, laundries, and bakehouses is to secure that the provisions of the Factory and Workshop Acts are not infringed, and, like the inspection of all regulated places, resolves itself into investigating the structural soundness, special fitness, and constant cleanliness of the premises.

The inspection of houses occupied by "outworkers" is based upon the returns of such persons, which must be supplied twice yearly by the employers to the local authority. The inspection is directed to securing that the premises are hygienically suitable, and that there is no danger of the carriage of infectious disease by means of the commodities dealt with therein.

Inspections made for the purposes of the Shops Acts are difficult on account of the complexity of their provisions, and so far appear to be not altogether satisfactory in results. Visits for these purposes involve observation of the display of the various notices required to be exhibited, and the presence of the requisite number of seats

for shop assistants, although the use of such seats is a matter of no moment.<sup>1</sup> To enforce the provisions as regards the weekly half-holiday and closing orders the inspector must not only keep a constant watch on the shops, but, in order to secure evidence of the infringement of the law, finds it necessary to engage an assistant to make test purchases. This procedure, necessary as it is, is open to much misconception. The officer, or the authority for which he acts, is always liable to the charge of acting as an *agent provocateur*, and of "deliberately seducing citizens to break the law."<sup>2</sup> The difficulty is not singular to the administration of the Shops Acts; it arises in other cases where, in order to lull offenders into security, it is essential that agents should act as much as possible like members of the general public might act.

To obtain evidence of breaches of the law relating to the hours of employment of children and young persons all the tact and discretion that an inspector is likely to possess are required.<sup>3</sup> In the main he must rely upon the evidence of the employee, whom he has power to question, but who, as a rule, is more concerned with keeping his employment than with giving evidence which may land his employer in the police-court. It is not surprising that, in such circumstances, the inspector finds himself up against "a wall of lies," and that when he has obtained the necessary evidence and taken legal proceedings the employee often contradicts under oath in the witness-box the signed information which he has given to the inspector at the time of his visit.

The methods of investigating cases of infectious disease, of inspecting food and of sampling food and drugs, must

<sup>1</sup> See an interesting paper on "The Shops Acts, 1912 and 1913," by F. J. Rowe, read at the annual conference of the Sanitary Inspectors' Association, 1913.

<sup>2</sup> See leading article, *Evening News*, November 27th, 1913.

<sup>3</sup> Shops Act, 1913, and Employment of Children Act, 1903.

be dealt with separately,<sup>1</sup> but a class of inspections which occupies a large part of an inspector's time must be noted. As a result of the various inspections different nuisances are found and steps taken to secure their abatement by the persons responsible.<sup>2</sup> But the matter cannot be left here ; it is necessary to see that they are properly abated and not likely to recur, hence "re-inspections" are entailed. The number and duration of these will be determined by the alacrity with which the persons responsible obey the demands for abatement and the extent of the works necessary to secure the removal of the nuisance. A single visit may suffice, or a long series of daily inspections may be required in cases where large and complicated re-drainage works must be carried out.

The Royal Sanitary Commissioners in their Report of 1871 laid down as one of the principles of successful public health administration that "the efficiency of officers is as important as their ubiquity. They must be well instructed and capable, without the pedantry and officiousness of sciolists. Ignorance, pretentiousness, or overmeddling would bring into disrepute any sanitary system. In a free country disrepute means failure." In carrying out his multifarious duties the sanitary officer must necessarily be endowed with a considerable amount of tact, courtesy, and discretion. Technical and legal knowledge is not sufficient ; it must be combined with the capacity to adapt means to ends and an absence of that superiority and aloofness which too many officials adopt. He is the eyes and ears of the department. If well advised he, rather than rely upon his unaided memory, makes careful notes and sketches of what he finds, and, whilst giving careful and courteous attention to what he is told, is very cautious how he relies upon information received. It is due to the fact that the staffs of the

<sup>1</sup> See Chapters XV. and XVI.

<sup>2</sup> See next chapter.

sanitary authorities of this country possess these characteristics in a marked degree that inspection creates little friction or resentment, and that no small measure of success has attended the administrative efforts on behalf of the public health.

## CHAPTER XIV.

### THE ABATEMENT OF NUISANCES.

IN the early days of public health legislation and administration the chief object sought was the abatement of nuisances; hence the first official name—inspector of nuisances. As time passed, however, other duties, such as food inspection, have been added, and the list of prohibitions and requirements have been greatly extended until, as already indicated, the title has become a misnomer. But for statistical purposes it is customary to class under the head of “Nuisances” all those conditions which are prohibited and the absence of those conditions which are required by law. The term “nuisance” has therefore a positive and negative aspect which appears to have had some little influence upon the procedure prescribed for their abatement.

It is necessary to keep in mind the fact that whilst in the last resort official action must be strictly in accordance with the terms of the law, this does not preclude the official from exercising his powers of persuasion—verbal or written—to secure compliance with the law. This is a practice very extensively followed, and with great success. It has the advantages of saving time otherwise lost over the formal but necessary details of procedure, of obviating friction with owners and others, many of whom are more amenable to personal persuasion than to legal pressure, and of frequently securing the rectification of minor matters which do not come within the range of the law.

Nuisances arise as a result of individuals doing what they are expressly forbidden to do (such as establishing an offensive trade in an urban district without the authority's

consent, or overcrowding any premises), or failing to do those things which they are required to do (as neglecting to provide a water supply to dwelling-houses or to keep drains in good order) by statute, bye-law, or regulation. The distinction is not of great importance, but it seems to have been used to divide those cases in which an official notice of the existence of a nuisance is necessary from those in which it is not, although, as will be gathered from the tabular statement at the end of this chapter, there are exceptions. As a matter of fact, it is customary to serve a notice upon the offenders in practically all cases, whether legally necessary or not; such a policy avoids the possibility of the official or authority being charged with harsh or high-handed action, and it gives an opportunity to those who are not the actual offenders, although legally responsible, to take steps to remedy the nuisance and prevent its recurrence.

In London and in Scotland an intimation of the existence of a nuisance is required to be sent to the person responsible for its abatement,<sup>1</sup> and the bulk of the nuisances are remedied in this way. In the provinces this policy, though not compulsory, is frequently followed, with equal success. In both cases this applies to breaches of bye-laws no notice of which is required. If the nuisance remains unabated the next step lies with the local authority, which has to consider the facts and sanction the subsequent proceedings, which may be either the service of a statutory notice to abate the nuisance, or the laying of an information in the prescribed court, or the carrying out of the necessary works by the authority's officers and the recovery of the costs incurred. It is essential that this authority be first secured, or the subsequent proceedings may be pronounced illegal; the officer can seldom take action on his own initiative. It has been held, however, in a case under the Metropolis

<sup>1</sup> Public Health (London) Act, 1891, s. 3; Public Health (Scotland) Act, 1897, s. 19.

Management Act, 1855,<sup>1</sup> that a resolution of the duly appointed public health committee was sufficient without the previous approval of the vestry.<sup>2</sup> An exception to this procedure is found in the case where the inspector of nuisances of an urban district is empowered to act on his own initiative and deal with accumulations of offensive matter.<sup>3</sup>

The same line of division which separates the cases in which a statutory notice is necessary from those in which it is not also appears to separate those cases in which the local authority have the alternatives of themselves causing the work to be done and recovering the costs or of complaining to the courts from those cases which must go to the courts for adjudication, but again there are exceptions which prevent a clearcut classification. Local authorities are, however, chary of exercising the powers of doing work and incurring expenses which may be recovered with great difficulty, and in general prefer to obtain the order of the court to abate the nuisance and the infliction of penalties where they are provided for.

The persons responsible for abating nuisances are specified in the various enactments designating the nuisance. The occupier is liable for keeping swine in a dwelling-house<sup>4</sup>; the owner in the case of a house without a proper supply of water<sup>5</sup>; whilst in the cases of defective drains and sanitary fittings<sup>6</sup> or offensive accumulations,<sup>7</sup> notice may be served upon the owner or occupier, but if the local authority carry out the work in default the expenses incurred thereby can only be recovered from the owner, although in the former case, where a penalty for non-compliance with the notice is provided for, the

<sup>1</sup> Section 85.

<sup>2</sup> *Firth v. Staines*, [1897] 2 Q. B. 70; see also Chapter VI.

<sup>3</sup> See Table No. 3 at end of chapter.

<sup>4</sup> Public Health Act, 1875, s. 47.

<sup>5</sup> *Ibid.*, s. 62.

<sup>6</sup> *Ibid.*, s. 41.

<sup>7</sup> *Ibid.*, s. 49.

occupier may be fined if the notice has been served upon him. For the purpose of the "nuisance" clause of the Public Health Act, 1875,<sup>1</sup> notice must be served upon "the person by whose act, default or sufferance the nuisance arises or continues," or "if such person cannot be found, upon the owner or occupier of the premises on which the nuisance arises." To this there are the provisoes that the owner is responsible where "the nuisance arises from the want or defective construction of any structural convenience or where there is no occupier," and if "the person causing the nuisance cannot be found and it is clear that it does not arise or continue by the act, default or sufferance of the owner or occupier the local authority may themselves abate the nuisance without further order."<sup>2</sup> The question of responsibility is a large one, which has led to considerable litigation and many judicial decisions which are not altogether consistent and clear.<sup>3</sup> In determining upon whom to serve notice the local authority is under no necessity to consider any arrangement entered into between owner and tenant; if the owner is responsible the notice is served and may be enforced upon him, leaving him to seek any remedy he may have against the tenant.

It is noteworthy that a mere rent collector comes within the definition of "owner" and as such may be served with a notice to abate a nuisance, and an order may be made upon him even if he has resigned his post since service of the notice to abate.<sup>4</sup> "The object of the Legislature seems to have been that as the occupier was often poor, and the real owner might be difficult to discover, it was as well to get at the collector of rents who could always be found out; and therefore the person who

<sup>1</sup> Section 91.

<sup>2</sup> Public Health Act, 1875, s. 94.

<sup>3</sup> See notes to section 104 of the Public Health Act, 1875, and others dealing with specific nuisances in Lumley's "Public Health Acts" (7th ed.).

<sup>4</sup> *Broadbent v. Shepherd*, [1901] 2 K. B. 274.



receives the rack rent from the occupier is deemed the "owner."<sup>1</sup> The question as to whether or not an actual owner who sells his property between the receipt of a notice and the hearing of the complaint by the justices thereby divests himself of his responsibility has not, apparently, been decided, but the probability is that he does not, although the difficulties in the way of enforcing such responsibility do not encourage local authorities to pursue him.

The form of the statutory notice is specified in the Fourth Schedule of the Public Health Act, 1875, together with other forms required in pursuance of the duty of the local authority to secure the abatement of nuisances. The time within which the nuisance must be abated must be specified on the notice, and varies from "forthwith" in the case of choked drains or the more urgent and gross nuisances to fourteen or twenty-one days where more or less considerable work is required. In the metropolis and Scotland a specification of the works necessary to abate the nuisance is not required, but for the provincial districts it has been decided that "an order under section 96 of the Public Health Act, 1875, whether it be made at the instance of the local authority or of a private individual, and whether it be for the abatement of a nuisance or for the prohibition of the recurrence of a nuisance, must specify the works necessary to abate the nuisance or prevent its recurrence as the case may be, if any works are necessary for that purpose. But where the recurrence of a nuisance can be prevented by merely refraining from doing the acts which caused it, and no works are necessary to prevent its recurrence, an order simply prohibiting the doing of any acts which may lead to a recurrence of the nuisance is good."<sup>2</sup> This requirement, which, of course, does not apply in the case of nuisance arising

<sup>1</sup> Blackburn, J., in *Cook v. Montague* (1872), L. R. 7 Q. B. 418.

<sup>2</sup> *The Queen v. Horrocks and Others*, 64 J. P. 661; 69 L. J. Q. B. 688.

from the emission of black smoke from a chimney other than that of a dwelling-house,<sup>1</sup> is open to some objection. Nuisances may often be abated in more than one way, and since the local authority are concerned solely with their abatement, it should be a matter of indifference to them which method is adopted. From the point of view of the person called upon to abate the nuisance it is a matter of importance to choose the cheapest way, a fact which need not enter into the consideration of the local authority causing the notice to be served. It is, moreover, very doubtful if the authority can enforce the work specified on the notice if the nuisance has been abated in some other way and is not likely to recur.

Notices, orders, and other documents may be wholly or partly in writing or print, and are sufficiently authenticated by the signature of the clerk, surveyor, or inspector of nuisances of the local authority.<sup>2</sup> The medical officer of health is here omitted, but in many places the medical officer of health signs by virtue of his power to exercise any of the powers of an inspector of nuisances.<sup>3</sup> As a rule notices are served by prepaid post at the residence of the person to whom they are addressed, but they may be served by hand, and in cases where they are addressed to the owner or occupier of the premises, and where there is no one on the premises to receive them, they may be affixed on a conspicuous part of the premises. In either case it is necessary in subsequent proceedings to prove that service has been properly carried out.

If the notice served is not complied with, the local authority have various methods of proceeding to secure compliance. In some cases they may enter the premises and carry out the necessary work, recovering the costs incurred; in others they may lay an information at a court of summary jurisdiction, asking for an order upon

<sup>1</sup> *Millard v. Westall*, [1898] 1 Q. B. 342.

<sup>2</sup> Public Health Act, 1875, s. 266.

<sup>3</sup> *Ibid.*, s. 191.

the person at default to comply with the notice and for penalties ; whilst in others they may do either and in some cases both.<sup>1</sup> But the final word, except in procedure under the Housing and Town Planning Act for the closing and demolition of houses unfit for habitation, always rests with the courts, which must be satisfied of the existence of the offence and that the prescribed procedure has been complied with.

In dealing with insanitary areas under Part I. of the Housing of the Working Classes Act, 1890, the ultimate factor is the Local Government Board, which must be petitioned to make an order for the purpose.<sup>2</sup> A closing order is obtainable from the courts in the case of cellar-dwellings for which two convictions for illegal occupation have been obtained within three months,<sup>3</sup> or where a "house is unfit for human habitation,"<sup>4</sup> or where two convictions for overcrowding have taken place within three months.<sup>5</sup> In the second case proceedings may be taken under Part II. of the Housing of the Working Classes Act, 1890, in which event, if within three months of notice given the buildings are not made fit for habitation, they may be demolished and the material sold, any excess of receipts over the expenses incurred being handed to the owner.

The Housing and Town Planning Act, 1909, simplifies the procedure for dealing with houses which are not reasonably fit for human habitation according to implied contract,<sup>6</sup> or which are represented by the medical officer of health as being unfit for human habitation.<sup>7</sup> The necessity for applying to the courts is removed, the local authority being given power to serve notice and do the

<sup>1</sup> See statement at end of chapter.

<sup>2</sup> See also Housing and Town Planning Act, 1909, s. 24.

<sup>3</sup> Public Health Act, 1875, s. 75.

<sup>4</sup> *Ibid.*, ss. 91 *et seq.*

<sup>5</sup> *Ibid.*, s. 109.

<sup>6</sup> Sections 14 and 15.

<sup>7</sup> Sections 17 and 18.

necessary work and recover the cost in case of default, subject to the owner's right of appeal to the Local Government Board in case he does not intimate his intention of closing the house,<sup>1</sup> whilst the authority have the power of making a closing order as regards houses unfit for human habitation and a demolition order in the event of the house or houses not being rendered fit. In each case appeal lies to the Local Government Board, which advises proceedings under sections 14 and 15 rather than under 17 and 18, as closing and demolition decrease accommodation. These powers are a powerful lever in the hands of local authorities for securing improved housing conditions, the extent and increasing use of them being clearly shown by the following tables :—

TABLE I.—HOUSING.

*Action under Section 15, Housing and Town Planning Act, 1909.*

—	From Dec. 3rd, 1909, to March 31st, 1911.	During Year ending March 31st, 1912.	During Year ending March 31st 1913.
Number of authorities taking action . . . . .	500	778	859
Number of houses in respect of which notices were served .	18,927	43,781	51,649
Houses closed by owners . .	679	1,269	1,681
Notices complied with . . .	11,649	31,289	41,884
Number of cases in which the local authority executed work in default of owner .	40	176	107
Cases in which notices remained undisposed of. .	6,081	15,799	19,434

<sup>1</sup> These powers apply to houses the annual rent of which is below £40 in London, £26 in boroughs or urban districts with a population exceeding 50,000 at the preceding census, and £16 elsewhere.

TABLE 2.—HOUSING.

*Action under Sections 17 and 18, Housing and Town Planning Act, 1909. Closing and Demolition Orders.*

Years ending March 31st.	1909.	1910.	1911.	1912.	1913.
Houses represented to local authorities . .	6,312	6,429	24,429 <sup>1</sup>	47,429 <sup>1</sup>	55,827 <sup>1</sup>
Houses made fit by owner.	3,731	3,056	7,042	13,417	18,080
Houses closed or demolished voluntarily . .	1,510	1,389	1,419	1,935	2,157
Houses for which closing orders were made . .	587	1,511	4,870	9,761	10,701
Houses for which closing orders were determined .	<sup>2</sup>	274	732	2,108	2,870
Houses for which closing orders were made, but which were demolished by owners . . . .	<sup>2</sup>	<sup>2</sup>	534	1,072	1,556
Houses for which demolition orders were made . .	196	170	495	1,423	2,190

Tables 1 and 2 compiled from tables given in "Municipal Year Book," 1914, pp. 782—807.

<sup>1</sup> In many cases local authorities proceeded under s. 15.

<sup>2</sup> Figures not available.

TABLE 3.—METHODS OF ABATING NUISANCES.

Offence.	Notice required.	In Default.		Statute.
		Powers of Local Authority.	Powers of Court.	
Erection of houses without privy accommodation.	None . . .	Complain to court .	Penalty . . .	P. H. Act, 1875, s. 35.
Absence of privy accommodation for houses.	Notice . . .	May do necessary work and recover costs.	—	<i>Ibid.</i> , s. 36.
Absence of privy accommodation for factories, &c.	Notice . . .	—	Penalty and daily penalty.	<i>Ibid.</i> , s. 38; also P. H. Acts Amendment Act, 1890, s. 22, and F. and W. Act, 1901, s. 9.
Drainage, &c., not in proper order.	Notice . . .	May do necessary work and recover costs and complain to court.	Daily penalty .	P. H. Act, 1875, s. 41.
Houses requiring to be cleansed or purified.	Notice . . .	May do necessary work and recover costs and complain to court.	Daily penalty .	<i>Ibid.</i> , s. 46.

Illegal connection of drain to sewer.	None	.	.	.	May do necessary work and recover costs and complain to court.	Penalty . . .	<i>Ibid.</i> , s. 21.
Undrained buildings .	Notice	.	.	.	May do work and recover costs.	—	<i>Ibid.</i> , s. 23.
Unauthorised building over sewers or under streets.	Notice	.	.	.	May do work and recover costs. Forfeiture and daily payment to L. A.	—	<i>Ibid.</i> , s. 26.
Swine in dwellings ; waste or stagnant water in dwellings ; soakage from w.c., &c. (urban).	None	.	.	.	May do work and recover costs and complain to court.	Penalty and daily penalty.	<i>Ibid.</i> , s. 47.
Accumulation of filth (urban).	24 hours' notice	.	.	.	L. A. may remove and sell, recovering any excess of cost over receipts and paying to owner any excess of receipts over cost.	—	<i>Ibid.</i> , s. 49.
Non-removal of manure at stated intervals (urban).	Public notice	.	.	.	Complain to court	Daily penalty . .	<i>Ibid.</i> , s. 50.
Foul or offensive water-courses or ditches on or near boundary of district.	None	.	.	.	Complain to court of adjoining authority.	Order execution of necessary work and apportion costs.	<i>Ibid.</i> , s. 48.

TABLE 3.—METHODS OF ABATING NUISANCES—*continued*.

Offence.	Notice required.	In Default.		Statute.
		Powers of Local Authority.	Powers of Court.	
Absence of water supply to houses.	Notice . . .	May provide or contract for supply and recover costs.	—	P. H. Act, 1875, s. 62.
Pollution of water with gas washings.	24 hours' notice from L. A. or owner of water.	—	Forfeit (£200) and daily penalty (sued for in superior courts during continuance or within 6 months of cessation of offence).	<i>Ibid.</i> , s. 68.
Polluted public or private water supply.	None . . .	Complain to court. May do work and recover costs if order is made and disobeyed.	Order to temporarily or permanently close supply or restrict its use for certain purposes only.	<i>Ibid.</i> , s. 70.
Cellar dwellings illegally occupied.	Notice . . .	Complain to court	Daily penalty. Close if two convictions within 3 months.	<i>Ibid.</i> , ss. 71 to 75.
Cellar dwellings illegally occupied.	Notice of closing order; appeal within 14 days to L. G. B.	Shall make a closing order; complain to court on default.	Order compliance with closing order.	Housing and Town Planning Act, 1909, s. 17.



Breaches of law relating to common lodging-houses.	None . . . .	Complain to court .	Penalty and daily penalty.	P. H. Act, 1875, ss. 76 to 89, and bye-laws.
Nuisances . . . .	Notice . . . .	Complain to court. If order of court is not complied with, work may be done and costs recovered.	Penalty and order; daily penalty for disregarding order; closing order where house is unfit for human habitation; closing order in case of two convictions for overcrowding within 3 months.	<i>Ibid.</i> , ss. 91 <i>et seq</i>  <i>Ibid.</i> , s. 109.
Insanitary areas . .	Publication and notice to owners, &c., of making of improvement scheme.	May make an improvement scheme and petition a Sec. of State (London) or L. G. B. (provinces) to make an order.	—	Housing of the Working Classes Act, 1890, Part I.; H. W. C. Act, 1903, s. 5; H. & T. P. Act, 1909, s. 24.
Buildings unfit for human habitation.	Notice. Notice of intention to make a demolition order. 3 months' notice to demolish.	Complain to court. If buildings are not made fit, a demolition order may be made and buildings demolished; balance of receipts over cost being handed to owner.	Closing order . . .	H. W. C. Act, 1890, Part II.

TABLE 3.—METHODS OF ABATING NUISANCES—continued

Offence.	Notice required.	In Default.		Statute.
		Powers of Local Authority.	Powers of Court.	
Houses not kept reasonably fit for human habitation, according to implied contract.	21 days' notice. Owner may within this time appeal to L. G. B.	If notice is not complied with and owner has not notified his intention of closing houses, work may be done and costs recovered.	—	Housing and Town Planning Act, 1909, ss. 14 and 15.
Houses unfit for human habitation.	Notice of closing order. Owner may appeal to L. G. B. within 14 days against closing order or refusal to determine it. Notice (1 month) of intention to consider question of demolition and 21 days' notice of demolition order, against which owner may appeal to L. G. B.	Shall make a closing order and shall determine it if necessary work is done. Shall consider question of demolition after closing order has been operative for 3 months, and shall make a demolition order, suspending it for not more than 6 months for execution of necessary repairs.	—	<i>Ibid.</i> , ss. 17 and 18.

Establishment of offensive trade without consent of authority (urban).	None	.	.	.	Complain to court	.	Penalty (£50) and daily penalty.	and P. H. Act, 1875, s. 112.
Effluvia nuisances	None	.	.	.	Complain to court	.	Penalty	<i>Ibid.</i> , s. 114.
Non-cleansing and disinfection of premises and things.	Notice	.	.	.	Complain to court. Carry out work and recover costs except in cases of poverty.	.	Daily penalty	<i>Ibid.</i> , s. 120; repealed where infectious Diseases Prevention Act, 1890, s. 5, has been adopted. See also ss. 6, 7 and 13 of the latter Act.
Exposure of infected persons and things; non-disinfection of infected public conveyances; letting infected houses and rooms.	None	.	.	.	Complain to court	.	Penalties	P. H. Act, 1878, ss. 126 to 129. Infectious D. P. Act, 1890, s. 11.
Removal of body of person dying of infectious disease in hospital, &c., to place other than a cemetery or mortuary.	None	.	.	.	Complain to court	.	Penalties	Infectious Diseases Prevention Act, 1890, s. 9.

TABLE 3.—METHODS OF ABATING NUISANCES—*continued*.

Offence.	Notice required.	In Default.		Statute.
		Powers of Local Authority.	Powers of Court.	
Dead bodies kept in certain places and conditions.	None . . .	Apply to J. P. for an order.	J. P. may order removal to mortuary and burial within specified time; relieving officer to bury in case of default and recover costs.	Infectious Diseases Prevention Act, 1890, s. 10.
Pollution of rivers .	None . . .	Complain to county court.	Daily penalty; order to cease offence and direction to any person to carry out order and recover costs.	Rivers Pollution Acts, 1876 and 1893.
Passing injurious matter into sewers.	None . . .	Complain to court .	Penalty and daily penalty.	P. H. Acts Amendment Act, 1890, s. 16.
Passing chemical refuse, steam, &c., into sewers.	One notice only of provisions of section.	Complain to court .	Penalty and daily penalty.	<i>Ibid.</i> , s. 17.
Dirty or offensive common sanitary conveniences.	None . . .	Complain to court .	Penalty and daily penalty.	<i>Ibid.</i> , s. 21.

Rooms over privies, &c., used as sleeping rooms.	7 days' notice . . .	Complain to court . . .	Penalty and daily penalty.	P. H. Acts Amendment Act, 1890, s. 24.
Erection of new buildings on ground made up with offensive matter.	None . . .	Complain to court . . .	Penalty and daily penalty.	<i>Ibid.</i> , s. 25.
Common courts and passages not kept clean.	None . . .	May do work and recover costs from occupiers.	—	<i>Ibid.</i> , s. 27.
Throwing cinders, &c., into streams.	None . . .	Complain to court . . .	Penalty . . .	<i>Ibid.</i> , s. 47.
Breaches of Canal Boats Acts and Regulations.	None . . .	Complain to court . . .	Penalty . . .	Canal Boats Acts, 1877 and 1884.
Breaches of various bye-laws.	None . . .	Complain to court . . .	Penalty . . .	—
Effluvia from drains, &c., in workshops and workplaces.	Notice . . .	Complain to court . . .	Penalty and Order (as ss. 91 <i>et seq.</i> , P. H. Act, 1875).	Factory and Workshops Act, 1901, s. 2.
Dirty workshops . . .	Notice . . .	Complain to court, and may do work and recover costs.	Daily penalty . . .	<i>Ibid.</i>
Bakehouses illegally let or occupied.	None . . .	Complain to court . . .	Penalty and daily penalty after conviction.	<i>Ibid.</i> , s. 97.
Insanitary bakehouses . . .	None . . .	Complain to court . . .	Penalty and order . . .	<i>Ibid.</i> , s. 98 ; see also s. 100.

## CHAPTER XV.

### PROTECTION OF THE FOOD SUPPLY.

It is a matter of great economic and hygienic importance that the condition and quality of the food purchased and consumed by the public should be above suspicion; deception invariably involves fraud, and quite frequently may be an immediate danger to health. These facts have long been recognised, and in every mediæval town searchers were employed by the guilds to seek out offenders and secure their punishment. An interesting relic of this system is the Fishmongers' Company of London, which still exercises control over the sale of fish at Billingsgate Market.

To-day these duties are defined by statute and in general devolve upon the sanitary authorities, being exercised by officers of the health department. The distinction between condition and quality is only used to simplify classification; bad condition indicates a state which renders an article otherwise perfect unfit for food—*e.g.*, diseased, decaying, or damaged foodstuffs; bad quality denotes a defect from the usually accepted composition of any food—in this case, of any drug also. The detection of both are branches of an inspector of nuisances' duties, but where specialisation has proceeded far, the former becomes the function of the meat inspector acting under powers given by the Public Health Acts, and the latter of the food and drugs inspector working under the Food and Drugs and kindred Acts.

The Public Health Act, 1875,<sup>1</sup> gives power to enter, inspect, and examine any animal, carcase, meat, poultry,

<sup>1</sup> Sections 116 to 119.

game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk exposed for sale, deposited for the purpose of sale, or of preparation for sale, and intended for the food of man. If it is found to be diseased, unwholesome, unsound, or unfit for human food it may be seized and submitted to a justice, who may condemn it and make an order for its destruction. Penalties may then be obtained from either the person to whom it belongs or did belong at the time of exposure for sale, or in whose possession or on whose premises it was found. It is to be noted that the *onus* of proving that it was not intended for human consumption is thrown upon the person charged, but in practice the inspector must be provided with evidence rebutting such a defence, which is frequently made when a case is taken into court. Where the Public Health Acts Amendment Act, 1890,<sup>1</sup> has been adopted the power of seizure and condemnation extends to all articles of food even if already sold, and the inspector is thereby enabled to deal with such foods as eggs, butter, and cheese, and to take proceedings upon unsound food submitted to him immediately after purchase by the purchaser.

It is a great disadvantage that food, however unfit it may be, cannot be seized by an assistant to the inspector of nuisances or medical officer of health, and it is to be noted that these latter officers may seize but not destroy food which they deem unfit for consumption; this can only be ordered by a magistrate, who may hear the owner on the question of soundness. The officer is not required to ask the owner to be present when food he has seized is submitted to the justice, but this practice is very generally followed, as it removes any chance of an allegation of unfairness.

This branch of work bristles with difficulties; the inspector's duties tend to be those of a detective, and he must, by constant and unexpected calls at the various places where foodstuffs are dealt with, endeavour to strike

<sup>1</sup> Section 28.

the fear of detection into the hearts of evilly disposed dealers and to make illegal action too expensive to be pursued. The chief difficulty is with meat, the signs of disease in which are difficult for the ordinary person to detect; they are frequently very easily removed, and as a last resort the sausage machine, spices, and a final attractive dressing as potted meat, pastes, sausages, or other delicacies puts an effective disguise upon food which may be totally unfit for the purpose. The only place and time at which meat can be efficiently inspected is at the slaughter-house just after slaughter before any of the offal has been removed; but to attain this is not easy. The slaughter-houses are known, since they are registered; but they are scattered, and slaughtering may take place at any time and the meat or any parts removed before an inspector arrives. The circumstances at Grimsby are quite typical of provincial towns; "there are fifty-four annually licensed slaughter-houses . . . scattered all over the town and slaughtering may be in progress at all of them simultaneously at any hour of the day or night, Sunday included." <sup>1</sup>

From the point of view of those whose care is for the wholesomeness of the meat supply these facts constitute the justification for local public abattoirs and the abolition of private slaughter-houses. In the absence of these institutions it appears desirable that all slaughter-houses should be subject to annual licensing, that the hours of slaughtering should be limited as a condition of the grant or renewal of all licences, and that failure on the part of any slaughterman to immediately notify the inspector of any diseased or damaged carcase, whether or not it was intended for human food, should be met by severe penalties. An alternative to the last suggestion, but more difficult to work without a staff larger than that usually available, is that the inspector should be notified when slaughtering is to take place so that he may have

<sup>1</sup> H. F. Moody in *Sanitary Journal*, November, 1913, p. 160.



an opportunity of being present and inspecting the carcase and offal. Arrangements are often made by which butchers voluntarily notify the inspector when they are slaughtering or when they find that the carcases are diseased, in the latter case surrendering the meat for destruction.<sup>1</sup> In the meantime the inspector learns by experience which people may be most trusted and which, by slaughtering at irregular intervals and hours, are probably evading the law; and by keeping eyes and ears open and taking full advantage of the telephone to co-operate with inspectors in adjacent districts he is enabled, despite the drawbacks and difficulties, to exercise an amount of supervision which, under the circumstances, appears to be impossible.

The practice has arisen in some live-stock markets of slightly increasing the price of cattle and giving an undertaking to refund a certain proportion of the purchase-money if, on slaughtering, an animal turns out to be diseased and the inspector is called in before the hide is removed. If the inspector finds the whole or part of the carcase of such an animal to be unfit for food he has it destroyed and hands a certificate to that effect to the owner, who forwards it to the vendors. In 1913 the Board of Agriculture issued an order<sup>2</sup> dealing with tuberculosis in bovine animals and providing, amongst other things, for the notification of cases of tuberculosis in cattle and for compensation in cases where it is deemed advisable to slaughter such animals. How far this will tend to stamp out the disease with which, more than any other, the inspector has to deal cannot at present be surmised, but both these methods of sharing the loss should certainly make it less remunerative to risk heavy penalties by dealing in diseased meat.<sup>3</sup>

<sup>1</sup> See Forty-second Report of the Local Government Board, Part III., p. lvii.

<sup>2</sup> Tuberculosis Order, 1913, amended in 1914.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., pp. lvii. *et seq.*

The growing importance of imported foodstuffs, especially meat, has resulted in special legislation to secure that such food shall be sound and free from disease. To this end the Public Health (Regulations as to Food) Act, 1907, empowered the Local Government Board to make regulations providing for the effective inspection of foodstuffs on board the vessels or immediately after landing.<sup>1</sup> The resulting regulations place upon port sanitary authorities and councils who are riparian authorities the duty of inspecting, by their medical officer of health or his assistants, all imported foods, taking samples and seizing any unfit for human food, or taking steps to ensure that it shall not be used for that purpose. For this latter purpose cargoes are permitted to be landed and their destination and purpose notified to the authorities into whose district they are removed, when the local inspector visits and assures himself that the proposed purpose is actually fulfilled.<sup>2</sup>

The inspection of fish, fruit, vegetables, and other foods is not subject to such difficulties as that of meat ; unsoundness is more obvious and more difficult to disguise. In this case again the practice of the best wholesale salesmen who sell closed parcels by sample is to allow for any which are found by purchasers to be unsound, if the latter submit them to the local inspector and receive his certificate of destruction. The powers of dealing with gooseberries affected with the American gooseberry mildew and the packages in which they are contained<sup>3</sup> are in the interests of agriculture rather than public health, but the duties usually fall upon the local inspector dealing with food.

The protection of milk from dirt and disease is an

<sup>1</sup> Public Health (First Series : Unsound Food) Regulations, 1908, and Public Health (Foreign Meat) Regulations, 1908 and 1909.

<sup>2</sup> Forty-second Report of the Local Government Board, Part III., pp. lxxv. and lxxvi.

<sup>3</sup> American Gooseberry Mildew (Fruit) Orders, 1912 to 1915.

object of great solicitude on the part of many local authorities ; its capacity for carrying the germs of disease and its general use as an article of food, especially for young children and babies, make it very important that its purity should be stringently safeguarded. As we have already seen, local authorities are empowered to make regulations for the inspection of cattle, the sanitary arrangements of cowsheds and milkshops, the protection of milk against contamination, and kindred matters : 1,661 authorities have made such regulations and maintain a more or less efficient inspection to ensure that they are obeyed.<sup>1</sup> In order to prevent the milk from tuberculous cattle being sold for human food the local authorities are empowered to provide for the inspection of milch cows within their district by a veterinary inspector,<sup>2</sup> and over 315 authorities have done so.<sup>3</sup> In some places, under powers possessed by local Acts, samples of milk from outside the district are taken in course of delivery and examined ; if found tuberculous the veterinary officer with one of the sanitary officers, armed with the order of a magistrate of the county within which the farm is situated, visits and examines the cattle. If any cow is suffering from tuberculosis the sale of milk from such cow is prohibited. In London, under powers conferred by their General Powers Act, 1907, the County Council systematically sample and examine milk and stop the supply from all sources proved to be tuberculous. Milk exposed for sale, especially in general shops, is very liable to suffer deterioration from the close proximity to dusty or odorous commodities, and most of the important authorities provide for the inspection of such shops and the advising of the shopkeepers as to the best place and way to keep the milk. This policy is also pursued

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. lix.

<sup>2</sup> Dairies, Cowsheds, and Milkshops Order, 1899.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. lix.

as regards condensed milk and jams sold in small quantities and other provisions which are centres of attraction for flies, and much good work is done by securing that such goods are kept covered and as clean as their nature will allow.

The Milk and Dairies Act, 1914, considerably extends the powers of local authorities for safeguarding the milk supply. They may, separately or in combination with another authority, appoint one or more veterinary inspectors for the purposes of the Act and the Milk and Dairies Orders, and provide facilities for bacteriological or other examinations of milk ; in both cases the option may be made compulsory by the Local Government Board.<sup>1</sup> The sale or the use in the manufacture of products for human consumption of milk from tuberculous cows is prohibited,<sup>2</sup> and the Local Government Board, with the concurrence of the Board of Agriculture, may make general and special orders for any of the following purposes<sup>3</sup> :—

- (1) The registration of dairies.
- (2) The inspection of dairies and persons employed therein.
- (3) The prevention of danger to health from the sale or use of infected, contaminated, or dirty milk.
- (4) The prohibition or regulation of the addition to or abstraction from milk of any substance or constituent, and the prohibition or regulation of the sale of artificially treated milk.
- (5) The regulation of the cooling, conveyance, and distribution of milk.
- (6) The labelling, marking, identification, and sealing or closing of receptacles used to contain or convey milk.
- (7) Prescribing the conditions under which milk

<sup>1</sup> Section 7. The operation of this Act has been suspended for a year.

<sup>2</sup> Section 1.

<sup>3</sup> Section 2.

may be sold as "certified milk," and prohibiting such sale unless the conditions are complied with.

If the medical officer of health of any county or county borough believes that the milk from any dairy within his district causes or is likely to cause tuberculosis, he must report to his authority and also submit to them any veterinary or bacteriological reports received by him. The local authority, following somewhat similar procedure to that prescribed by section 4 of the Infectious Disease (Prevention) Act, 1890, may prohibit, absolutely or subject to conditions, the supply or use of such milk until satisfied that it is not likely to cause disease. If the order is made for reasons which are not the result of the dairyman's own neglect or default, he is entitled to recover compensation for loss and damage from the local authority, against whose decisions he has the right of appeal to a court of summary jurisdiction.<sup>1</sup> The medical officer of health is required to inspect the dairies and cattle therein if he receives notice from the medical officer of health of another district that the milk from such dairies has caused or is likely to cause tuberculosis, and he must supply copies of all reports received or made as the result of such investigations, together with information as to what action, if any, has been taken as a result, to the medical officer of health making the complaint.<sup>2</sup> This is an important power, and it seems a pity that it was not made to apply to all diseases which might be traceable to the milk supply from an outside district. A later section of the Act requires the Local Government Board to make regulations under the Public Health (Regulations as to Food) Act, 1907, for the prevention of danger to health from the importation of milk or milk products intended for sale for food or for use in the manufacture of products for human consumption.<sup>3</sup>

<sup>1</sup> Section 3 and Schedule II. Compare Chapter XVI.

<sup>2</sup> Section 4.

<sup>3</sup> Section 8.

The difficulties that beset the task of securing a wholesome milk supply are so great, and the necessity for such a supply is so imperative, that some few authorities have adopted the positive practice of themselves providing a supply for consumption by infants who come under the care of their officials. The first infants' milk depôt in this country was established by the St. Helens Corporation in 1899, and was followed during the next few years by Liverpool, Ashton-under-Lyne, Dukinfield, Battersea, Bradford, and Burnley. The source of the milk supply is stringently controlled, and the milk itself is sterilised and modified in different ways to suit the digestive capacity of children of various ages. Generally a small charge is made for the milk, which is only allowed to those mothers who bring their children to the depôt for weighing and examination by the attendant doctor, nurse, or health visitor. In this way and by visiting the mother at her home the early life of the child is subjected to a supervision that cannot fail to have a good effect upon the rate of infantile mortality and upon the future adult population.

Progress in this direction has been very slow, despite the obvious advantage of providing milk of the best quality suitably modified to resemble mother's milk for the purpose of artificially feeding infants when their mothers cannot suckle them. In 1912 the Local Government Board had information of such depôts in eight towns, the last established dating as far back as 1906, whilst four others had been established, one temporarily during an epidemic of infantile disease, and, for some reason or other, afterwards closed.<sup>1</sup> Any doubts as to the legality of such action have now been removed by the Milk and Dairies Act, 1914 (section 9), which permits any sanitary authority, subject to the approval of the Local Govern-

<sup>1</sup> See G. F. McCleary, "Infantile Mortality and Infants' Milk Depôts"; F. Lawson Dodd, "Municipal Milk and Public Health" (Fabian tract, 122); and Forty-second Report of the Local Government Board, Part III., p. lxii.

ment Board, to establish and maintain depôts for the sale at not less than cost price of milk specially prepared for consumption by infants under two years of age. Doubt may be expressed as to whether the condition as regards price is a wise one. The infants most in need of such milk are those whose parents are least able to purchase it. There are necessitous infants as well as necessitous school children, and from the point of view of the public health it is desirable that sanitary authorities should have the same powers as regards the former as the education authorities have to feed the latter.

The object of the various Food and Drugs Acts and the regulations made thereunder is to protect the consumer from fraud and injury to health and the tradesman doing an honest and straightforward business from the unfair competition of unscrupulous rivals. To ensure this the councils of counties, county boroughs, and non-county boroughs having a population exceeding 10,000 are required to appoint analysts,<sup>1</sup> to whom must be submitted samples of various foods and drugs obtained by the persons appointed for the purpose. The officer usually detailed to obtain samples is the inspector of nuisances, but cases are not infrequent where the duty is given to an inspector of weights and measures or a police officer. The offences may be briefly summarised as—(1) the abstraction of essential ingredients; (2) the addition of improper substances; (3) the application of a false name or description; and (4) selling milk from vehicles or receptacles without the vendor's name thereon, or margarine in wrappers not marked "margarine" in letters of the prescribed size. Should the analyst's certificate show that the food or drug has been improperly dealt with, the local authority may take proceedings in a court of summary jurisdiction. It is only since the beginning of this century that analysts have had any definite standards of purity to work to, except in the case of drugs the purity of which

<sup>1</sup> See Chapter X.

is judged by the standard laid down in the British Pharmacopœia. Now, however, there are legal standards for the three foods which are most numerous sampled—*i.e.*, milk,<sup>1</sup> butter,<sup>2</sup> and cream.<sup>3</sup> The laws respecting food and drugs have become so numerous and complex, and the loopholes for dishonesty remain so plentiful, that a Bill has recently been introduced into the House of Commons by Sir Philip Sassoon<sup>4</sup> to consolidate and amend the existing laws, to give local authorities power to take samples at any time after manufacture or preparation for consumption is completed, and to enable the Local Government Board, with the aid of an advisory committee, to issue regulations fixing standards of purity for all articles of food or drugs. Later in the year, however, the Milk and Dairies Act, already referred to in this chapter, was passed, giving the Local Government Board increased powers of regulating the sale and use of milk and milk products and empowering the medical officer of health of any district, in which milk from a dairy in another district is sold or kept or exposed for sale, to require the medical officer of health of the district within which the dairy is situated to take samples of the milk at the dairy or in course of transit from the dairy to the place where it is retailed. A portion of the sample must be transmitted to the medical officer of health giving notice, who in the event of defect in quality may take proceedings in the court in his own district or in that having jurisdiction in the district where the sample was taken.<sup>5</sup>

In appearance an inspector's duties under the Food and Drugs Acts present no difficulty and call for the exercise of little skill or knowledge ; to purchase pounds of butter

<sup>1</sup> Sale of Milk Regulations of the Board of Agriculture, August, 1901.

<sup>2</sup> Butter and Margarine Act, 1907.

<sup>3</sup> Milk and Cream Regulations of the Local Government Board, August, 1912.

<sup>4</sup> May 20th, 1914. The Bill was not proceeded with.

<sup>5</sup> Milk and Dairies Act, 1914, s. 5.



and pints of milk and go through the formal and not complex procedure required by law seems a simple matter. In reality the duties require the exercise of a considerable amount of discretion, ingenuity, and cunning in order to checkmate the nefarious practices of those who make their profits largely at the expense of the poorer classes. The tricks of the dishonest tradesman call forth considerable resource on the part of the inspector to secure fair samples of the goods he buys,<sup>1</sup> and on the other hand the sophistication of food products has become a fine art requiring all the scientific knowledge of the chemist to detect it. The latter difficulty has been clearly described by the medical officer of health for Islington, who reported that

“ the detection of adulteration is becoming more and more difficult, and is due, in the first place, to the astuteness of the vendors of the adulterated articles, and, in the second, to the more highly scientific means now practised. In the latter case, however, the adulteration is effected by the original makers of the article or by the wholesale vendors. It has been pointed out in previous reports that the vendors of milk ‘ tone ’ it or, in plain English, adulterate it with separated milk ; but they take great care that they do not ‘ tone ’ it below the standard set up by the Board of Agriculture. The addition of separated milk to new milk has become almost a fine art with some milk purveyors, who, although they are known to receive large quantities of separated milk, which they do not sell, yet mix it so skilfully that it is impossible to bring them within the four corners of the law.” <sup>2</sup>

How this is possible may be seen by a comparison of the standard set by the regulations of the Board of Agriculture, which prescribe a minimum of 3 per cent. of fat and 8·5 per cent. of non-fatty solids, with the results obtained by the analyst for the county of Derby, who found that 4,075 samples of milk examined by him from 1903

<sup>1</sup> See the Forty-second Report of the Local Government Board, Part III., pp. lxiii. *et seq.*

<sup>2</sup> Quoted in the Forty-second Report of the Local Government Board, Part III., p. lxvi.

to 1912, including every sample, however grossly adulterated, gave averages of 3·59 per cent. of fat and 8·67 per cent. of non-fatty solids, both well above the legal standard.<sup>1</sup>

Of course, the inspector himself seldom makes a purchase ; he is too well known. He must and invariably does employ at irregular intervals a number of agents of varying ages and both sexes to buy the goods to be analysed. But this alone is not sufficient. The cunning vendor has to be lulled into fancied security by the purchasing agent buying other goods at the same time or, since some tradesmen only swindle regular customers, by making regular purchases for a longer or shorter period, some of the samples being for analysis to secure indication of the quality of the goods being served. During 1912 nearly 24,000 such " informal " samples were taken for analysis in 184 districts, 1,886 being unfavourably reported on.<sup>2</sup> The tricks and counter-tricks are too numerous to enumerate and can be found described in the various papers read at conferences by those concerned with the detection of adulteration, but they result in a battle of wits from which the most patient and artful of inspectors does not always emerge successful by bringing the delinquent to justice. During 1912 the number of samples submitted for analysis was 108,174, of which 8·4 per cent. were reported against, the percentages being 8·7 in 1911, 8·2 in 1910, and 7·5 in 1909. Of these samples 303 were submitted by persons other than officers of a local authority, the bulk coming from Bradford, Southampton, Stepney and Portsmouth, where low fees are charged for the analysis ; no less than 14·7 per cent. of these were condemned. Nearly half (52,501) of the samples submitted were milk, butter making another fifth (21,721), wine (123) being the least numerous ; the percentage of adulterated

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. lxvii.

<sup>2</sup> *Ibid.*, p. lxiv.

samples ranged in England from 2·7 in Somerset to 16 in Northamptonshire, and in Wales from 4·9 in the county of Radnor to 20·9 in Cardiganshire, whilst London showed a figure (8·8) just above the average.<sup>1</sup>

In the struggle of the sanitary authorities to secure pure and wholesome food for the people it will usually be found that where administration is most thorough it is also most effective—it pays to deal neither in unsound nor impure food. The eternal vigilance of the inspectors is the price of pure sound food for the public.

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., pp. lxiii. *et seq.* and 158 *et seq.*

## CHAPTER XVI.

### INFECTIOUS DISEASE.

THE great object of sanitary administration is the prevention of disease. In order to attain this object sanitary authorities adopt, to use a military metaphor, two lines of attack: by a flank movement they endeavour to seize the base from which disease operates, and, by destroying its supplies, starve it into submission or severely limit its powers and activity; whilst, on the other hand, they make a frontal attack by isolating and defeating it wherever it has seized upon members of the community. To the first class belong all those activities aiming at preventing and abating nuisances, securing sound and pure food, and maintaining those conditions which hygienic science shows are necessary for healthy life; in the second class are included those efforts which deal with infected persons, places and things, providing for the isolation and treatment of the first and the disinfection of the two last. Having dealt with the first class, it is now necessary to outline public health administration as it conducts the second line of attack.

It is obviously of primary importance, if the sanitary authority is effectually to deal with infected persons, places and things, that it should have early and exact knowledge of the existence of infection. With a few exceptions where the most progressive towns had obtained compulsory powers under private Acts this essential was, however, not widely obtained until the Infectious Diseases Notification Act was passed in 1889; and even this Act was adoptive until 1899.<sup>1</sup> Since the latter date every case of "small-pox, cholera, diphtheria, membranous croup, erysipelas, scarlatina or scarlet fever,

<sup>1</sup> Infectious Diseases (Notification) Extension Act, 1899.

and the fevers known under any of the following names—typhus, typhoid, enteric, relapsing, continued or puerperal,”<sup>1</sup> must be forthwith notified to the local authority by the medical attendant and by the head of the family, nearest relative present in the building or in charge of the patient, or the person in attendance or in charge of the patient.<sup>2</sup> Subject to the consent of the Local Government Board, this list may be added to by a temporary or permanent order of the local authority made for that purpose at a specially convened meeting, public notice by handbills and advertisement being given of the order when made.<sup>3</sup> The extent to which local authorities have taken advantage of this power is indicated by the following list of additional diseases which were notifiable in various districts on March 31st, 1912<sup>4</sup>:—

Anthrax (38 districts).

Chicken-pox (67).

Glanders (36).

Hydrophobia (33).

Impetigo contagiosa (one).

Measles (87).

Ophthalmia neonatorum (200). (Notifiable everywhere since April 1st, 1914.)<sup>5</sup>

Rotheln (eight).

Summer diarrhoea (one, from July 15th to October 15th).

Whooping-cough (19).

Yellow-fever (two).

The addition in 1903 by the Sheffield Corporation of tuberculosis to the list of infectious diseases notifiable in that town was an intelligent anticipation of and a great stimulus towards the future events which culminated

<sup>1</sup> Infectious Disease (Notification) Act, 1889, s. 6.

<sup>2</sup> *Ibid.*, s. 3.

<sup>3</sup> *Ibid.*, s. 7.

<sup>4</sup> Forty-second Report of the Local Government Board, Part III., p. xxxiii.

<sup>5</sup> Public Health (Ophthalmia Neonatorum) Regulations, 1914.

in the issue of the Public Health (Tuberculosis) Regulations in 1912, by means of which all cases of all forms of tuberculosis everywhere became notifiable to the local authority. The Local Government Board, in the exercise of their powers under section 130 of the Public Health Act, 1875, have also added cerebro-spinal fever and acute poliomyelitis<sup>1</sup> and ophthalmia neonatorum<sup>2</sup> to the list of diseases which must be notified to the local sanitary authority.

At the present time, therefore, every case of the chief infectious diseases is immediately notified to the local authority. But cases occur where the disease is so slight as to be overlooked, or delay occurs in calling in a doctor, or difficulty of diagnosis arises; and it is just these cases which frequently frustrate the best efforts of the local authorities and spread the disease broadcast before the necessary steps to check it can be taken. The disease having been notified to the local authority, there is no delay on the part of the officials in dealing with the case; this duty takes precedence of all others. The inspector of nuisances, however he may be related otherwise to the medical officer of health, in dealing with infectious disease, acts directly under his instructions and control. His duties in this respect, as a rule, may be reduced to routine, although they vary slightly with the different types of disease. The premises occupied by the patient are immediately visited and inquiries made with the object of tracing the source of infection, learning the adequacy of the means of isolation and treatment, and securing removal to hospital where necessary and possible, and discovering the existence and whereabouts of persons and articles likely to have become infected by contact with or use by the patient; and finally advice is given to those in charge of the patient and premises.

<sup>1</sup> Public Health (Cerebro-spinal Fever and Acute Poliomyelitis) Regulations, 1912.

<sup>2</sup> See note 5, p. 173.

The certificate of notification should give the full name, age, and address of the patient, the disease from which he or she is suffering, the date, the signature of the medical practitioner, and a statement that the case occurs in private practice or is attended by the doctor acting as medical officer to a public body or an institution ; the last item deciding whether the fee paid for notification shall be 2s. 6d. or 1s.<sup>1</sup> This information, provided on forms which the local authority must supply gratuitously to any medical practitioner residing or practising in their district, directs the inspector's visit and forms the basis of his inquiries, the results of which are reported to the medical officer of health.

The facts thus garnered <sup>2</sup> may be summarised under three headings as affecting persons, places, and things. The patient is, of course, the most important of the persons, the essential information being the date of attack, the time and place at which he was in contact with infection or consumed food or drink which might possibly be infected, and, in the case of small-pox, whether and when vaccination and re-vaccination was carried out. Other persons dealt with are " contacts," those who have been in contact with the patient between the probable date of infection and that of the discovery of the disease—a fact of particular importance when dealing with small-pox, as such " contacts " are often isolated until the possibility of them having contracted the disease is beyond a doubt. The schools (day and Sunday) attended by the patient and any children in the house and the employment of any working inmates of the dwelling are also noted, the latter knowledge being required in case they deal with foodstuffs, clothing, or other goods to which they might convey infection. The chief point as regards the premises is the arrangement made for isolating the patient if he is not removed to hospital ; unless there is an actual

<sup>1</sup> Infectious Disease (Notification) Act, 1889, s. 4.

<sup>2</sup> See form of inquiry at end of chapter.

pressing nuisance existent upon the premises, these are best thoroughly inspected and dealt with, after the removal or recovery of the patient, by the methods previously indicated.<sup>1</sup> Under the heading "things" come goods received by outworkers living in the house, books borrowed from libraries or schools, and bedding, clothing, and other articles used by the patient, but not contained in the sick-room. At the conclusion of the inquiry the official gives all necessary advice and warning, usually leaving a card or leaflet containing both set out in an easily intelligible form.

The information thus obtained determines the subsequent procedure. If isolation is inadequate or other good reasons exist, removal to hospital is provided for, the bedding removed for disinfection, and the premises immediately disinfected and inspected. In certain cases the patient may be compulsorily removed to hospital.<sup>2</sup> When the patient is treated at home surprise visits are made where there is reason to think that necessary precautions against spreading infection may not be taken, cases of such neglect being visited by legal proceedings, or by admonishment in the less flagrant instances.

It is usual to notify the heads of the schools attended by children from an infected house, and they are excluded until such time after the patient is removed or has recovered as makes it unlikely that they have contracted the disease, when a further notice is sent to the school. To facilitate the work of the school teachers these notices are frequently printed on different coloured paper—red for infection, and white for freedom from infection. The reports of the schools attended are frequently scanned by the medical officer of health, who is often also the school medical officer, as it may be deemed necessary to close a school or schools when a considerable number of the scholars are suffering from infectious disease. Children

<sup>1</sup> See Chapters XIII. and XIV.

<sup>2</sup> Public Health Act, 1875, ss. 124 and 125.



may be excluded or the school closed either by the managers, acting on the advice of the school medical officer, or by the sanitary authority or two members of it, on the advice of the medical officer of health, but in cases of exclusion of individual children the grant is lost, whilst if the school is closed the grant is secured. This is a grave defect ; the loss of grant makes education committees very keen on compelling the attendance of scholars, and fear of the school attendance officer often results in children attending school when really unfit and sometimes when suffering from mild and ill-defined or unrecognised infectious disease. On the other hand, the opinion appears to be gaining ground that to close schools, especially in urban districts, is not a very useful precaution, since the children still mix very much in their play and are out of the surveillance of the teachers, who are constantly on the look-out for suspicious symptoms of disease. In view of this opinion it appears to be much more desirable and fair that the grant should be paid for all children excluded by the medical officer of health or the school medical officer.

A point to which the medical officer of health pays careful attention is the source of the milk supply ; in cases of typhoid fever the inquiries are extended to include the recent consumption by the patient of such foods as shell-fish, fried fish, ice-cream, and salads. If the evidence indicates a possibility that any milk supplied within the district has caused or is likely to cause infectious disease, the medical officer is empowered to obtain an order from a justice having jurisdiction in the place where the dairy from which the milk comes is situated, and to inspect such dairy, whether within or without his district, and, by a veterinary surgeon, to inspect the cows. If the examination confirms his theory, the medical officer of health must report to the local authority, which, having given the dairyman not less than twenty-four hours' notice to appear before them, may make an order prohibiting him

from supplying milk within the district until the order is withdrawn ; this must be done as soon as the local authority or the medical officer of health is satisfied that the source of danger is removed.<sup>1</sup>

It is usual to furnish the public libraries within the district with lists of newly-infected and disinfected houses, borrowed books being removed from the former by the sanitary officers, and, if not destroyed, they are disinfected before return to the school or library.

The Factory and Workshop Act, 1901,<sup>2</sup> makes it an offence to give out any wearing apparel to be made, cleaned, or repaired in any place in which the employer knows that there is a case of small-pox or scarlet fever. It is therefore necessary for the sanitary authority to notify such persons of any case of these diseases occurring at an outworker's house, thus removing all doubts as to their knowledge of the fact. Any work on the premises is taken charge of by the sanitary officer and disinfected before its return to the owner. The local authority have the further power of making an order prohibiting the giving out of the same kind of work to any inmate of a house wherein a person is suffering from any of the infectious diseases notifiable in the district, the prohibition remaining until the medical officer of health is satisfied that the house is free from infection.<sup>3</sup>

Communications are constantly passing from one local authority to another with reference to cases of infectious disease. Disease is often contracted in one district where the patient has been visiting and notified in another, and persons visiting at an infected house return to their homes in a different district. Such information enables the sanitary officer to seek out possible sources of infection in the one case and to keep observation upon the contacts

<sup>1</sup> Infectious Disease (Prevention) Act, 1890, s. 4. See also the Milk and Dairies Act, 1914, ss. 1 and 3, as regards tuberculosis and milk.

<sup>2</sup> s. 109.

<sup>3</sup> *Ibid.*, s. 110.

in the other ; the latter duty is especially important in cases of small-pox, when some authorities subject the "contacts" to a rigorous quarantine under medical supervision and observation, indemnifying them for loss of wages and freedom. On the arrival in a home port of a ship from an infected foreign port, or with a case of infectious disease on board, the port sanitary officials secure the names and addresses of all on board before they are permitted to land, and these are at once forwarded to the authorities to whose districts the "contacts" are proceeding. The local officials are thus enabled to visit and advise the "contacts" and to act promptly in cases where the disease develops ; these efforts are, however, frequently frustrated by the "contacts" giving fictitious addresses to the port sanitary officers.

Most authorities provide a free supply of disinfectant—powder or liquid or both—to the occupiers of infected houses, directions as to its use being given by the inspector and on the "precaution paper" handed by him to them. At least two authorities, Poplar and Portsmouth, manufacture their own disinfectant for the use of the public health department.<sup>1</sup> Immediately after the patient is removed to hospital or has recovered the room or rooms are disinfected by one of the various methods in use, and the house is inspected, notice being served, where necessary, for the removal of any defects found. In cases where the patient is isolated at home it frequently happens that he is removed from one room to another more suitable, in which case the former is disinfected before use. The fact that a medical man is not always in attendance throughout the illness, and so does not notify recovery to the local authority, requires the sanitary officer to keep careful record in a diary of the date at which, in the normal course of events, disinfection would be necessary. At this date inquiry is made as to the patient's condition, and, if necessary, disinfection is post-

<sup>1</sup> See *Municipal Journal*, May 22nd, 1914, p. 620.

poned to a later date, under which a new entry must be made.

The administrative methods of inquiring into and dealing with infectious disease are, on the whole, very thorough and efficient, especially in the large urban districts. In these districts considerable specialisation of officials has taken place, and the staff includes, besides the medical officer of health and inspector of nuisances with his assistants, one of whom perhaps devotes his whole time to visiting and inquiring into cases of infectious disease, disinfectors, ambulance men and nurses, and men to remove infected articles from the home and return them from the disinfecting station, which also has a staff of attendants. The general use of the telephone, and adequate provision of motor ambulances and cars for collecting infected articles, makes it easy for such an organisation to deal rapidly and efficiently with any call made upon it.

In a rural district and in many urban districts all or most of these functions devolve upon the inspector of nuisances, who is usually without many of those appliances which facilitate the expeditious performance of his duty. The time occupied in performing these duties and doing the necessary clerical work, for which in larger districts a clerk is appointed, undoubtedly does much to account for the presence of insanitary conditions which foster disease, but with which the inspector has no time to deal.

The Board of Education directs the weekly notification by head teachers to the medical officer of health of cases where children are absent from school on account of any of the minor non-notifiable diseases, such as measles, whooping-cough, mumps, &c., but in practice the more direct method of notification by the school attendance officer is often adopted. The information thus obtained directs the visits of the health visitor, the latest development of the humanising and educational tendency of public health administration, who gives to the mother

the advice and encouragement necessary to secure the best possible treatment for the patient. A somewhat analogous duty performed by the same officials is the visitation of mothers whose newly-born infants have been notified under the provisions of the Notification of Births Act, 1907, the object of the visit or series of visits being to secure the proper care of and attention to the infant during the early months of its existence, which are known to be the most dangerous to infant life. The regulations making ophthalmia neonatorum a notifiable disease have given an additional reason for the visit in many cases. Where "babies' welcomes," "infant consultations," and similar institutions exist, the health visitor often plays an important part in their work, and, in addition, frequently addresses mothers' meetings and similar gatherings upon questions affecting the health and welfare of mothers and their offspring. Friendly and not mandatory relations with the people visited characterise the activities of the health visitor, whose primary object, and one which should never be absent from any public health effort, is "to stimulate parental responsibility, personal control and regularity, and self-help."<sup>1</sup>

Intimately connected with the question of infant welfare and that of infectious diseases affecting parturient mothers and their babies, are the provisions of the Midwives Act of 1902. County and county borough councils are the local authorities for the purposes of this Act, but they may delegate their powers to committees, and, in the case of the former, to the district councils. All women who professionally attend women in childbirth otherwise than under the direction of a medical practitioner must be certified, provision being made for that purpose by the Central Midwives Board, a composite body constituted in November, 1902, by the Lord President of the Privy Council. The chief duties of this board are to frame rules

<sup>1</sup> Webb, "The State and the Doctor," p. 180.

regulating the training, examination and certification of midwives, and their supervision, control and admission to and removal from the roll of midwives.<sup>1</sup> Midwives must notify the local authority in January of each year of their intention to practise within the area of such authority, and must call in a doctor under certain prescribed circumstances. The local authorities are entrusted with the general supervision of the midwives in their areas, and usually depute a lady doctor on their staff or a highly trained and qualified health visitor to exercise this power. They must investigate charges of malpractice, and report to the Central Midwives Board if such charge is established, or if any midwife is convicted of an offence, may suspend any midwife from practice if such a course is necessary to prevent the spread of infectious disease, and must keep a roll of local midwives, supplying a copy annually to the Board, to whom they must report any change owing to death or removal. The Act has resulted in a considerable improvement in the treatment received by lying-in women and their children, an improvement which, no doubt, will be well reflected in the mortality and vitality rates of the future.

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APPENDIX. (*See note (2) on p. 175.*)

INFECTIOUS DISEASE (NOTIFICATION) ACT, 1889.

*Sanitary Inspector's Report.*

No.	Parish
Notification received	
Visited by inspector	
Disease	
Name of patient	Age
Residence	
Occupation of patient	
Name of householder	
Occupation of householder	

<sup>1</sup> Section 3.

Medical attendant  
 Date of medical attendant's first visit  
   ,, first feeling ill  
   ,, rash (if any)  
 Supposed source of infection  
 School attended by patient  
   ,, " others in household  
 Books from any library  
 Milk supply  
 Water supply  
 Ventilation  
 Privy, midden, water-closet, &c.  
 Drainage  
 Nature of dwelling (cottage, tenement, &c.)  
 No. of apartments  
 Total inmates                      No. of children under 14 years  
 Inmates not had the disease      Inmates left the house  
 Date of removal to hospital  
 If treated at home, how isolated, and by whom nursed  
 Remarks

<sup>1</sup> (Signed)

*Sanitary Inspector.*

<sup>1</sup> From "The Prevention of Infectious Diseases," by J. C. McVail, p. 69. An excellent work dealing with the "special preventive agency or agencies, duly related to the special causes" of the chief infectious diseases.

## CHAPTER XVII.

### HOSPITALS AND HOSPITAL ADMINISTRATION.

THE early efforts of sanitary authorities and their staffs were directed against an evil environment ; the discovery and abatement of nuisances were their main functions. But as medical and bacteriological science advanced it became more and more evident that man himself, especially the sick man, was an important factor in the dissemination of disease. The whole theory of infectious and contagious disease indicated the necessity for proper isolation and disinfection, and the growing knowledge of social conditions proved beyond dispute the impossibility of securing this in the homes of many, perhaps most, of the sufferers. To meet the want collective effort, voluntary or public, was shown to be essential ; the treatment and cure of disease in institutions was found to be an integral and necessary part of the work of prevention. The utility of isolation had, in fact, been recognised as early as the eighth century, when leper-houses or "lazars" were first founded in France, and later, when "pest-houses" were established on the outskirts of many mediæval towns for the isolation of persons suffering from plague and, perhaps, other diseases recognised as infectious.<sup>1</sup> In two directions institutional treatment was provided in the early years of the nineteenth century ; the foundation and maintenance of hospitals for the sick and infirm was a favourite form of philanthropic effort in the seventeenth and eighteenth centuries,<sup>2</sup> two important London hospitals, the Small Pox Hospital and the Lock Hospital

<sup>1</sup> H. F. Parsons, "Isolation Hospitals," pp. 1 and 2.

<sup>2</sup> B. Kirkman Gray, "The History of Philanthropy."



for venereal diseases, being established in 1745 and the following year<sup>1</sup>; and these persisted alongside the institutions in which the poor law authorities were compelled of necessity to make some sort of provision for infectious paupers, although accommodation apart from the mixed workhouse was rare. Later, when general hospitals were still largely used for infectious diseases, serious epidemics occurred, chiefly in the crowded urban areas, and these hospitals were unable to cope with the great pressure upon their accommodation, the poor law authorities were doing little or nothing, and thus the *onus* of providing isolation was thrown directly upon public health authorities, who responded by renting buildings or constructing temporary institutions. When the voluntary hospitals ceased to provide for infectious disease the sanitary authorities were compelled by circumstances to extend their efforts for the isolation, treatment, and cure of those diseases which their purely preventive work had not warded off.

The objects and advantages of this extension of the functions of sanitary authorities are well summed up by Dr. W. H. Power, a late medical officer of the Local Government Board, in the statement<sup>2</sup>—

“The provision of hospital accommodation for cases of infectious diseases is to be regarded primarily as a measure of sanitary defence, for the protection of the public against the spread of these diseases. It is true that such accommodation incidentally serves other useful purposes. Thus, it is frequently of value for the relief of individual sufferers from infectious disease, whose sufferings may be alleviated and recovery promoted by affording them better accommodation and attendance than they are able to obtain at their own homes. Or it may be the means of avoiding serious inconvenience and pecuniary loss, as when infectious disease breaks out in a school, lodging-house or place of business.”

Local authorities are empowered, singly or in combination, to provide hospitals or temporary places for the

<sup>1</sup> “Isolation Hospitals,” p. 2.

<sup>2</sup> Local Government Board Circular, May, 1902.

reception of the sick inhabitants of their district, and may either themselves build or contract or agree with public authorities or private persons having charge of such places, and may recover the cost of maintenance of patients.<sup>1</sup> The Isolation Hospitals Act of 1893 went a step further by giving the lately constituted county councils power to provide or cause to be provided hospitals for the reception of patients suffering from infectious disease in any district of the county. The county council may be moved by an application from a rural or urban district council or any twenty-five ratepayers of a contributory place, or they may themselves direct the county medical officer of health to report upon the necessity for an isolation hospital in any district. The consent of the local authorities affected is required, unless it is shown that they are themselves unable or unwilling to provide the necessary accommodation. The local authorities, for the purposes of this Act, may transfer to the county council any infectious hospital provided by them under the Public Health Act, 1875, or any local Act. If satisfied, the county council must constitute a hospital district and form a committee consisting wholly or partly of members of, or persons elected by, the council, or wholly or partly of representatives of the local area or areas affected, which cannot include any county borough or, unless the local authority consent, any borough having more than 10,000 inhabitants. The expenses incurred by the county council in providing and maintaining the hospital are chargeable upon the rates of the area served, but the county council may, in certain cases, contribute a capital or annual sum to both or either the structural and establishment expenses of such hospital; this provision has been extended to include the extension or enlargement of any hospital provided under the Public Health Act, 1875.<sup>2</sup> During the year ended March 31st,

<sup>1</sup> Public Health Act, 1875, ss. 131 *et seq.*

<sup>2</sup> Isolation Hospitals Acts, 1893 and 1901.

1913, the Local Government Board sanctioned loans to the amount of £66,102 to urban and rural district councils for hospitals and mortuaries provided under the Public Health Act, 1875, the sums sanctioned for similar purposes to joint hospital boards and port sanitary authorities being £19,234 and £615; and during the same period loans amounting to £3,200 were sanctioned on the application of county councils under the Isolation Hospitals Act, 1893.<sup>1</sup> The use of these powers throws a heavy responsibility and much onerous work upon the medical officer of health, who must not only advise his authority upon the need for such accommodation and sketch out how it is to be provided before the architect drafts the completed design, but has to support his recommendation before the Local Government Board inspector, who inquires into the need for the application for a loan, and, finally, to supervise the general hospital administration, and even in many cases to treat the patients himself. In some places patients are required or permitted to provide their own medical attendant, skilled nursing being provided by the authority.

The powers to provide for the treatment of sickness are, on the whole, adequate, but unfortunately they are very far from being taken full advantage of.<sup>2</sup> Mr. and Mrs. Sidney Webb, after the exhaustive inquiries made by the Poor Law Commission, were able to write that "a majority of the rural district authorities and not a few urban district authorities have no hospital accommodation, even for the most infectious diseases"<sup>3</sup>; and it is certain that where there has been an attempt made it is often very unsuitable and wholly inadequate. Of hospitals, as of nearly every other branch of public health work, no general statement can be made, unless it be

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. li.

<sup>2</sup> "Minority Report of the Poor Law Commission" (Fabian Society, 1909), p. 283.

<sup>3</sup> "The State and the Doctor," p. 208.

that the variety is amazing. Where provided they range from a two or three roomed cottage or shed awaiting a possible case of small-pox up to the great institutions with all their specialised departments, latest scientific apparatus, and large highly-trained and skilled staffs, provided by such towns as Liverpool, Leeds, and Sheffield. The same variation is found in the diseases treated. Under the Isolation Hospitals Acts the provision of hospital accommodation is restricted to that for infectious diseases—a retrograde step, since the powers given by the Public Health Act, 1875, enable a local authority to provide for the reception and treatment of the sick. This latter power has been held to include a great variety of non-notifiable diseases, as at Liverpool, and urgent surgical cases and accidents, as at Barry and Widnes,<sup>1</sup> and, anticipating the National Insurance and Finance Acts of 1911, phthisis at Brighton, Manchester, and Liverpool. In some few cases out-patients departments for the treatment of ringworm, impetigo, and similar complaints have been added; in others domiciliary treatment by municipal home nurses is provided for cases of puerperal fever or erysipelas, or where no other provision is made for treatment of the sick poor. In Newcastle this latter service is provided by the distribution of out-patients tickets, obtained by the town council contributing to the local hospital. In other places advantage is taken of the powers given by the Public Health Act, 1875,<sup>2</sup> to provide a temporary supply of medicine for the poorer inhabitants; this, in fact, was one of the earliest efforts to prevent the spread of infectious disease, having been employed at the time of the cholera epidemic of the early thirties and still persisting in the distribution of diarrhoea mixture at Manchester, and to hop-pickers in certain districts frequented by them. Vaccination, although

<sup>1</sup> "Minority Report of the Poor Law Commission" (Fabian Society, 1909), p. 267; H. F. Parsons, "Isolation Hospitals," p. 15.

<sup>2</sup> Section 133.

essentially a preventive measure, is provided by the poor law authorities, but anti-toxin is in many places supplied to medical practitioners free of charge for use in cases of diphtheria.

There is, therefore, lack neither of powers nor precedents for the provision of adequate treatment for cases of preventable disease, a term which science has so extended that it is now estimated to include about two-thirds of the total. But, despite this fact, such provision is neither general in distribution nor similar in kind or amount, and, whilst in many places every effort is made to provide accommodation and to encourage all requiring treatment to enter and benefit free of charge, it is to be regretted that in some cases where hospital accommodation is provided it is so hedged with restrictions that the institutions remain empty and patients must rely upon the poor law and charity. The defect is due to the fact that there is no general obligation upon local authorities to provide treatment or accommodation for any particular sick person, however needy he may be, or however dangerous it is to the public for him to remain at home without proper care, treatment, or isolation.<sup>1</sup> Local authorities may charge for any accommodation or treatment provided, but in most cases this is freely given, the expenditure being rightly judged to be well-incurred, and justified by the improved health and greater safety of the community. The Local Government Board favour the latter practice; but where a charge is made it can only be charged to the patient, as not even the father of a child treated in hospital can be successfully sued for the expenses incurred.<sup>2</sup> This has led to the practice in some places of requiring guarantees for the costs before admitting patients, and, as previously indicated, tends

<sup>1</sup> See, however, the powers of the county council under the Isolation Hospitals Acts, 1893 and 1901, referred to earlier in chapter.

<sup>2</sup> *Hull Corporation v. Maclaren*, (1898) *Local Government Chronicle*, p. 585.

to defeat the objects for which hospitals should be provided.

As an essential part of the work of the sanitary authority as regards infectious disease, powers are given to provide disinfecting apparatus and to disinfect infected articles free of charge, a feature of their work which is frequently carried on in conjunction with the hospital,<sup>1</sup> vans being used to convey bedding and other things to and from the disinfecting station. For the conveyance of sick persons to, but not from, the hospital, an ambulance may be provided,<sup>2</sup> and, where section 50 of the Public Health Acts Amendment Act, 1907, has been adopted this power extends to similar provision for cases of accident. Where the isolation hospital is provided under the provisions of the Isolation Hospitals Act, 1893, it must possess an ambulance or ambulances for the purpose of conveying patients to the hospital, which must as far as practicable be in connection with the system of telegraphs.<sup>3</sup> This is an excellent and necessary requirement, except that the telephone is nowadays more useful.

The powers given by the Cleansing of Persons Act, 1897, to the councils of county boroughs and urban and rural districts, as well as, by an act of legislative folly, to boards of guardians, to provide the necessary apparatus and to permit verminous persons to cleanse themselves and clothing, are such as may be economically exercised in conjunction with a disinfecting station.

It is becoming increasingly common, and, in the light of advancing knowledge, more and more necessary, for a bacteriological laboratory to be established in connection with the larger hospitals,<sup>4</sup> and the time may not be long distant before every county and county borough will

<sup>1</sup> Public Health Act, 1875, s. 122.

<sup>2</sup> *Ibid.*, s. 123.

<sup>3</sup> Section 13.

<sup>4</sup> See Report of the Medical Officer of the Local Government Board, for 1912—1913, for a summary of the pathological and bacteriological work done by public authorities and hospitals, pp. 226 *et seq.*

establish, maintain, and control a chemical and bacteriological laboratory wherein all scientific work connected with infectious disease, water, sewage, gas, and foodstuffs can be rapidly and efficiently carried out. This expectation is justified by the words of the Chancellor of the Exchequer, who, in introducing his Budget for 1914, stated that—

“ There is another deficiency in our health service which has been exposed by the operations of the Insurance Act. There is no provision for the scientific diagnosis of disease. In Germany, in almost every town, and I think also in France, there are pathological laboratories, which are of enormous assistance to doctors in ascertaining the real character of the disease when they are in any doubt upon the subject. There are a few boroughs in the United Kingdom where something has been done in this direction—even in London; but we propose to make a grant for the purpose of aiding the local authorities to set up laboratories throughout the United Kingdom.<sup>1</sup>

In such a system of hospitals, incomplete in extent and with units of such varying character, it is impossible to indicate any method of administration which can be said to be generally adopted. It is perhaps the best plan to describe the characteristics of the administrative organisation of a fair-sized hospital at which the essential conditions for success are practically realised. The object of a hospital is to cure disease and, by isolation, to prevent its spread amongst the members of the community; large or small, its administration must be directed to this end, but at the same time its organisation should be such as to permit of expansion with the minimum of friction and disturbance. For any hospital it is essential that the staff be adequate in number and efficient in skill and knowledge, the responsibility of each official must be definite in amount and direction, and in the absence of any one of them another should step in automatically to undertake the same duties and carry the same responsi-

<sup>1</sup> Speech by the Right Hon. D. Lloyd George, May 4th, 1914.

bility. In an institution where lives are at stake discipline is a very important consideration, but it is equally necessary that in its enforcement no sense of injustice or arbitrariness should be felt by the staff. To this end it has been found advisable that in every case an appeal should be left to a higher authority, terminating, in the more serious cases, with the committee controlling the hospital.

The official control of a hospital is vested in the medical superintendent, who may be the medical officer of health, in which case, as such superintendence is not one of the duties prescribed in the order of the Local Government Board, an additional salary is paid. In the case of the large hospitals the office is a separate one held by a medical practitioner possessing wide clinical experience together with a high degree of administrative ability. Sometimes the officer is definitely subordinated to the medical officer of health, but the most approved plan appears to be for the medical superintendent to be directly responsible to the hospital committee for its administration, whilst the medical officer of health determines which patients are admitted, except in cases of emergency. Under such conditions the medical superintendent usually has a very free hand, although the medical officer of health may take an indirect interest in the administration of the institution. Under the medical superintendent a hierarchy of officials and servants is to be found, varying in numbers and kinds in the different classes of hospitals ; they include medical officers, matrons, sisters, nurses, probationers, steward, clerks, ward maids, domestic servants, gardeners, porters, ambulance men, disinfectors, and others.<sup>1</sup>

The sanitary authority invariably delegates the powers of control of hospital administration to the public health committee or a special hospital committee, a sub-committee usually being formed for the purpose in the former case. To this committee all questions relating to hospital

<sup>1</sup> See H. F. Parsons, " Isolation Hospitals," Chapter XIV.



administration are referred, and all reports from the responsible chief are presented ; the latter including the fortnightly or monthly reports showing cases of each disease admitted, deceased and discharged, staff cases, and existing number of patients and vacant beds, together with a requisition for the various goods and appliances ordered or required. Where an annual report is presented it summarises the year's work, and may be accompanied by observations of any special circumstances relating to administration or treatment during the year dealt with, or by suggestions for improved methods for the future.

The medical superintendent is directly responsible for the care and treatment of the patients entering the hospital, for the discipline, training and good order of his staff, and for the general economical and efficient administration of the institution. If he is a good administrator he will exercise his control through a descending series of responsible officers, matters of sufficient importance to be dealt with by him personally reaching him at daily conferences with the departmental chiefs—the senior medical officer, the matron and the steward—official communications between whom should only pass through the medical superintendent.

The medical officers are responsible for the clinical and nursing work of the wards of which they have charge, each ward sister being subordinate and responsible to them for these purposes. The matron, a highly-qualified and experienced nurse, controls the work of the ward sisters, except as above indicated, the general behaviour of the nurses when off duty, and the female domestic staff ; in the institutions where an assistant matron or home sister is appointed she controls the female domestic staff and is herself responsible to the matron. The ward sisters—nurses who should have received a general as well as a fever training, of whom there is usually one for each division—are responsible for the general efficiency

and cleanliness of the wards, controlling the staff nurses, who are often only fever trained, and probationers, who are undergoing training, in all their work, and the ward maids for rough cleaning. The steward or headman deals with the accounts, clerical work and stores, other than drugs, and controls the work of the lay male staff.

Local authorities are experiencing difficulty in securing a sufficient number of properly-trained and qualified nurses or of probationers of the right class.<sup>1</sup> Probationers, who should be carefully selected, are received for two years, at the end of which time they are certificated if successful at an examination. Until recently these examinations were set by the hospital officials and varied so much in standard that certificates were of little value as a criterion of knowledge and ability unless the methods of the institution were known. The leading fever hospitals have now taken up a scheme instituted by the Fever Nurses' Association, by which a hospital of sufficient size and efficiency can be recognised by the association, in which case nurses must be trained in accordance with a scheme drafted by the association, which also approves the appointment by the Hospital Committee of an independent examiner to examine them in their practical work. The examination paper is set by the Education Committee of the association. The nurses who pass are certificated and registered, and may be removed from the register for misconduct. The arrangements for examination and registration are regarded by the Fever Nurses' Association as purely temporary, and every effort is being made to secure examination and registration by the State, a proposal which has the support of the British Medical Association and practically all organised bodies of nurses in the United Kingdom. The need for a good system of nursing was recognised by the Chancellor of the Exchequer in his last Budget speech, when he testified

<sup>1</sup> Compare Forty-second Report of the Local Government Board, p. xxix.

to the good work being done by some voluntary associations and local authorities, and declared it to be the Government's intention "to provide a substantial annual sum to help to provide for the training of an adequate supply of nurses."<sup>1</sup> As State regulation and control is the logical outcome of State aid, the efforts of the Fever Nurses' Association will probably soon be crowned by success.

The problem of training is not the only one confronting hospital authorities. It is necessary to secure a sufficient number of applicants of the right class for training, and these will only be obtained by improving the remuneration and conditions of service. At present the hours are long, liberty is small, the work is arduous, and the pay insufficient to attract the best class. The first two drawbacks can only be removed by increased staffs, and as an increased supply of nurses can only be obtained by offering adequate salaries the Fever Nurses' Association, which is particularly active, has formulated a minimum wage schedule which asks for probationers, £18 the first year and £20 the second; staff nurses £28, rising by annual increments of £2 to £34; and sisters £38, rising by similar increments to £44—all with indoor uniform. These demands are not excessive, and it is probable that economic forces will compel the most unwilling local authorities to adopt the scale in order to competently staff their institutions, especially since health visiting, school nursing, and sanatoria are rapidly increasing the demand for nurses.

<sup>1</sup> Right Hon. D. Lloyd George, May 4th, 1914.

## CHAPTER XVIII.

### THE CONTROL OF TUBERCULOSIS.

BEFORE the year 1911 sanitary authorities and their public health departments were not, as a general rule, specially concerned with the treatment or prevention of tuberculosis, despite the fact that the toll of deaths levied by this disease was only exceeded by those of bronchitis and pneumonia, diseases which it frequently follows. The reduction of the tuberculosis death-rate from 3·5 per 1,000 in 1851 to 1·6 in 1907 was a result of the general improved sanitary conditions, and not of any definite steps taken to combat this particular disease. There were exceptions, however; several authorities, such as the Liverpool, Brighton, and Blackburn Corporations, adopted systems of voluntary notification of phthisis, whilst Sheffield and Blackburn Councils early in this century obtained powers under private Acts which made notification compulsory. Administrative control, treatment, and preventive effort followed as a matter of course; and by December, 1911, nearly 1,400 beds had been provided by sanitary authorities in addition to 9,000 beds in poor law institutions occupied by consumptives, and 400 beds rented by local authorities at some of the 84 sanatoria (4,200 beds) provided by private persons or voluntary associations. Besides these efforts fourteen sanitary authorities had provided tuberculosis dispensaries, and in fifty other districts tuberculosis dispensaries under voluntary management were available.<sup>1</sup> The experience thus gained, together with the growing public opinion that a disease, which science showed was capable of control and prevention, should

<sup>1</sup> Forty-second Report of the Local Government Board (Medical Officer's Report), p. xxxix.

be controlled and prevented, resulted in the issue of a series of legislative enactments making all forms of the disease notifiable and requiring sanitary authorities to make provision for its treatment.

The Public Health (Tuberculosis) Regulations, issued in 1912 by the Local Government Board, repealed the previous orders of limited application, and required the notification to the medical officer of health of all cases of tuberculosis (pulmonary and non-pulmonary) by medical practitioners within forty-eight hours after first becoming aware that any person is suffering from the disease; school medical inspectors, medical officers of poor law institutions and sanatoria, and tuberculosis officers are allowed to send in weekly returns of cases coming under their notice. The medical officer of health must keep a register of such notifications, transmitting any received in error to the right quarter, and, if the district is a county district, he must forward to the county medical officer of health a weekly list of the notifications received. The medical officer of health, or an officer acting under his direction, is required to make such inquiries and to take such steps as are necessary or desirable for investigating the source or preventing the spread of infection, and for removing conditions favourable to infection. For these purposes the local authority, on the advice of the medical officer of health, may supply all such medical or other assistance and all such facilities and articles as may reasonably be required, as well as provide and publish or distribute suitable summaries of information and instruction respecting tuberculosis and the precautions to be taken against the spread of infection from that disease.

The powers given by these regulations, supplemented by the Public Health (Prevention and Treatment of Diseases) Act of 1913, are sufficiently comprehensive to include any steps that a local authority might wish to take to reduce the sickness and mortality rates from this

disease. But beyond these powers the provisions of the National Insurance and Finance Acts of 1911 are far more important, and have the additional advantage of encouraging, by grants in aid, the authorities concerned to take effective steps to stamp out a disease which entails a heavy drain upon the public and private purses.<sup>1</sup>

The National Insurance Act created insurance committees for every county and county borough, and required them to make provision for the treatment of insured persons suffering from tuberculosis either in sanatoria or other institutions provided by persons or local authorities (other than poor law authorities) or otherwise, subject to the approval by the Local Government Board of the institution or method of treatment and of the Insurance Commissioners of the arrangements made. The expenses of this "sanatorium benefit" are defrayed by the payment out of the insurance fund of 1s. 3d. per annum in respect of each insured person, whilst a further sum of 1d. in respect of each insured person is available from the Exchequer unless it is allocated to the Insurance Commissioners for the purpose of research. These benefits may be extended to all or any class of dependants of insured persons, in which case any deficit resulting may be made up by equal contributions from the national Exchequer and the local rates, provided that the expenditure causing the deficit has been sanctioned by both the Treasury and the county or county borough councils. The whole or part of the sum so payable by a county council may, as respects any borough or urban or rural district, be repaid by the councils of these areas.

It is obviously desirable that treatment provided for insured persons and their dependants should also be available for the remainder of the population, and that efforts to check, control, and conquer the disease should be general and effective. To this end, therefore, the Finance

<sup>1</sup> See Bannington, "Elements in the Cost of Consumption," in the *Westminster Review*, June, 1911.

Act, 1911, made available a further sum of £1,500,000 for distribution by the Local Government Board, with the consent of the Treasury given after consultation with the Insurance Commissioners. This sum is available for the purpose of the provision of and making grants in aid to sanatoria and other institutions for the use of the whole population, and is apportioned between the four kingdoms roughly in proportion to their respective populations at the census of 1911.

Under the provisions of these Acts, as expanded and elaborated by numerous orders and regulations issuing from the Local Government Board, a great national scheme for the detection and treatment of tuberculosis is being elaborated by the sanitary authorities concerned. The main lines of the scheme were laid down in the interim report of the Departmental Committee (Cd. 6164) appointed to report "upon the consideration of general policy in respect of the problem of tuberculosis in the United Kingdom, in its preventive, curative and other aspects, which should guide the Government and local authorities in making or aiding provision for the treatment of tuberculosis in sanatoria or other institutions, or otherwise."

The Committee, with the object that "no single case of tuberculosis should remain uncared for in the community, and that whatever services the scheme provides should be available for all cases of the disease," laid down the principles that "the tuberculosis dispensary should be the common centre for the diagnosis and for the organisation of the treatment of tuberculosis in each area," and that it should act as a clearing-house for and be linked up with "a system of sanatoria, hospitals, farm colonies, open-air schools, &c."

For the purpose of the cure and the prevention of the spread of tuberculosis the county and county borough councils are the designated local authorities. The medical officers of health of these areas were required to

report to their councils upon the existing needs and means of treatment of the disease within their districts, and to outline a scheme of completely correlated action against tuberculosis in their district or for a combination of districts. By August 30th, 1913, thirty-four out of fifty county councils had submitted complete schemes of institutional treatment and another eight had submitted partial schemes, whilst out of seventy-two county boroughs the numbers were fifty complete and eleven partial schemes. At the same date the Local Government Board had approved 219 sanatoria, hospitals or other institutions containing 7,764 beds, and 211 tuberculosis dispensaries for out-patient treatment of insured persons.<sup>1</sup> One of the conditions of such approval is that the institution shall be open to inspection by an inspector or other officer of the Board. In the middle of March, 1914, twenty-four county councils and twenty-two county borough councils had not provided and were not building sanatoria, and seven of the former and five of the latter authorities had not submitted any proposals for sanatorium accommodation.<sup>2</sup>

The result must be looked upon as satisfactory on the whole; it is not always easy to find suitable sites for sanatoria, and there are always many super-cautious members of local authorities who prefer to await the experience of others before entering upon any expensive scheme. England's share of the capital grant under the Finance Act for providing institutions for the treatment of tuberculosis amounts to £1,116,156, of which £40,101 had been actually paid, and £120,574 had been definitely promised by the middle of March, 1914.<sup>3</sup> This does not appear to indicate very rapid progress, but no doubt it will be greatly accelerated as the various authorities

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., pp. xiv. *et seq.*

<sup>2</sup> Answer to question in the House of Commons, March 17th, 1914.

<sup>3</sup> *Ibid.*, March 16th, 1914.



mature their schemes and the Local Government Board consider them in relation to the total population and its density, the incidence of the disease, and the housing conditions in the various areas.

The scheme set out by the Departmental Committee is being generally followed, and, as already indicated, consists of two units—the tuberculosis dispensary and a system of sanatoria and other institutions of a curative and educative character.

The functions of the tuberculosis dispensary are, in a general way, to serve as—

- (1) Receiving-house and centre of diagnosis.
- (2) Clearing-house and centre of observation.
- (3) Centre for curative treatment.
- (4) Centre for the examination of contacts.
- (5) Centre for “ after care.”
- (6) Information bureau and educational centre.

To this institution come or are sent patients in every stage of the disease as well as others whose ill-health may be only suspicious, or whose contact with infected persons makes it possible that they may have contracted the disease. After examination by the tuberculosis officer, aided by specially-trained nurses, the patients are drafted off to the various institutions suitable for their stage of the complaint, treated at the dispensary, or at home—domiciliary treatment—by their medical attendant acting in all cases in more or less close consultation with the tuberculosis officer. At the dispensary precautionary advice is given to patients and their guardians, and from it spitting-cups, open-air shelters, and medicines are distributed, and a system of observation and “ after care ” of patients who have been treated in institutions or at home is organised. This latter function is most important and gives scope for the utilisation of much voluntary effort of the right kind which can be organised under expert supervision.

The doubt which existed under the Tuberculosis Regulations as to how far the local authority could provide food

and other necessities for patients undergoing domiciliary treatment has been set at rest by the Public Health (Prevention and Treatment of Diseases) Act of 1913.<sup>1</sup> It is now lawful for the council of any county or for any sanitary authority to make any arrangements for the treatment of tuberculosis as may be sanctioned by the Local Government Board.

No hard-and-fast lines can be laid down for the provision of dispensary accommodation. The problem in compact urban districts, which may best be served by one or more centralised dispensaries always open, differs from that in rural districts with a scattered population, where a number of smaller institutions, periodically opened, may give the best results. But in each case the staff must include medical, nursing, dispensing, and secretarial officers in order to be economical and efficient.

The whole system pivots round the tuberculosis officer, who may be the medical officer of health if he is suitably trained and has sufficient time. If not, the tuberculosis officer must be a suitably qualified and experienced medical man, not less than twenty-five years of age, who has held house appointments for at least six months in a general hospital, in addition to a similar period of attendance at a special institution for the treatment of tuberculosis, and be competent to supervise the necessary laboratory work. The Departmental Committee laid great stress upon these points, and the Local Government Board has resolutely enforced them as well as the payment of a salary adequate to secure such men. By March, 1914, only eleven county councils, nine metropolitan borough councils, and seventeen county borough councils had failed to appoint tuberculosis officers, and in only four counties and nine county boroughs was the officer a part-time official.<sup>2</sup> So far as his duties are clinical and con-

<sup>1</sup> Section 3. See also Public Health (Tuberculosis) Regulations, 1912, art. XIII.

<sup>2</sup> Reply to question in the House of Commons, March 16th, 1914.

cerned with the diagnosis of the disease and the determination of the most suitable treatment, the tuberculosis officer acts quite independently of control by any other medical man, but in matters of administration he "should act under the direction of the medical officer of health, who is the chief executive and organising officer of the scheme."<sup>1</sup> It is very necessary that his relations with the general medical practitioners, the medical officers of the various institutions, and officials of other authorities and voluntary agencies should be close and friendly, as only in this way can a permanent and effective control and treatment of tuberculous patients be secured.

The relations with the local insurance committee are determined by the agreements between the committee and the local authority as to the treatment of insured persons and their dependants suffering from tuberculosis.

The Departmental Committee considered that the insurance committees would look mainly to the scheme of the local authority for the provision of institutional and dispensary treatment for those whom it recommends for sanatorium benefit, the tuberculosis officer appearing to them "to be the person best qualified to advise insurance committees in the discharge of such of their duties relating to persons suffering from tuberculosis as involve medical considerations." The Committee were also of opinion that whilst the local authorities should be legally responsible for the establishment and maintenance of the dispensaries, they should, in view of the payments made by the insurance committees in respect of their patients, "agree to be guided, in matters appertaining to the staffing and internal management of the dispensary, by the advice of a consultative committee consisting of members of the two bodies appointed by the respective parties in some agreed proportion"; and they further suggest that voluntary bodies specially interested in tubercu-

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xx.

losis might be given representation on this committee.<sup>1</sup> Proposals to constitute such committees are not everywhere being received with favour, and it is possible that the friction caused by pressing such proposals may be greater than the friction against which such committees are supposed to be a safeguard.<sup>2</sup> It is very doubtful if the creation of *ad hoc* authorities for health insurance was a move in the right direction, and the doubt is increased when more machinery is proposed to remedy defects which ought never to have been created.

Beyond the dispensary, and receiving cases which the tuberculosis officer has decided are suitable, are the sanatoria, providing about one bed per 5,000 of the population, and hospitals, with a similar bed capacity. The former are for cases which it is considered possible to restore to some measure of economic efficiency, if not to normal health, the latter being intended for advanced cases the removal of which from contact with healthy persons is a necessary measure for public health. In both cases, but particularly at the sanatoria, the inculcation of hygienic habits is an essential function of the medical and nursing staff. The organisation of the staffs of these institutions closely approximates to that of the municipal isolation hospital, but at the sanatorium it is necessary to provide work of various descriptions suitable for the strength of the different patients, and this entails the necessity of having persons on the staff who can define and superintend such efforts so that they may be neither useless nor wasteful.

It is obvious that however well thought out the scheme prepared by the Departmental Committee may be, and however closely the various authorities are following it

<sup>1</sup> Interim Report of the Departmental Committee on Tuberculosis, p. 21.

<sup>2</sup> See paper read by C. A. Clark (West Ham) on "Permanent Schemes for the Treatment of Tuberculosis and the Responsibilities of Insurance Committees in Connection therewith" at the first Annual Conference of Clerks to Insurance Committees, 1914.

in the absence of any alternative, experience will be rapidly accumulated and may lead to considerable modifications in the near future.<sup>1</sup> At present the scheme is entering upon its trial, but it is much to the good that it appears likely to become general throughout the country, and that the areas selected as the administrative units are such as to obviate overlapping and to reap the economies of administration on a large scale.<sup>2</sup>

<sup>1</sup> Various schemes are outlined in the "Tuberculosis Year Book," pp. 163 *et seq.*

<sup>2</sup> For legislation dealing with tuberculous cattle and milk, see the Tuberculosis Order, 1914, and the Milk and Dairies Act, 1914, referred to on pp. 161 and 163 *et seq.*

## CHAPTER XIX.

### SANITARY AUTHORITIES AND THE COURTS.

THE subordination of administrative authorities to statute law and the powers of the courts to enforce that subordination have been well summed up by an eminent legal authority, who says :—

“The administrative system of England is dominated throughout by the principle that no power can be exercised unless it has been conferred by law, no obligation imposed on any citizen except by law, and that if the exercise of discretion has been entrusted to any officer or department of the central Government or to any municipal body, this discretion must be exercised strictly according to the rules of law, which law will, in cases of dispute, be interpreted by the ordinary courts, not by an administrative tribunal.”<sup>1</sup>

We have already seen<sup>2</sup> that sanitary authorities owe their existence and powers to the action of Parliament, that some powers must be exercised and that others are discretionary, and as we have passed in review one after the other of the functions of the public health department we have repeatedly noticed that in the exercise of these powers the courts have to be appealed to in the last resort.<sup>3</sup> On the other hand, local authorities neglecting to perform duties imposed upon them by law may be compelled to do so by a *mandamus* of the High Court,<sup>4</sup>

<sup>1</sup> E. Jenks, “The Rule of Law in English Local Administration,” in “Problems of Local Government,” p. 204; compare Dicey, “The Law of the Constitution,” and Ashley, “Local and Central Government.”

<sup>2</sup> See Chapters III., IV., and V.

<sup>3</sup> See Chapters XII. and XIV. for particular instances.

<sup>4</sup> Compare Public Health Act, 1875, s. 299; Housing and Town Planning Act, 1909, ss. 10, 11, and 61; and Milk and Dairies Act, 1914, s. 10.

and if such neglect deprives a citizen of a right to which he is entitled he may bring an action for damages against a local authority<sup>1</sup> or official, but if the duty involves the exercise of discretion malice must be proved for the action to be successful.

It is, moreover, necessary that the authority and their officials, in the performance of their duties, act strictly within their legal powers, complying with the prescribed procedure and seeking the specified remedies, for no plea of public interest will protect them if they are guilty of illegal action against individuals; they can be made liable as if they were private citizens. Any action brought against a local authority or officials in respect of any act done in pursuance or execution or intended execution of any Act of Parliament or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty or authority, is, however, in general, subject to the conditions that it must be instituted within six months of the alleged offence, and sufficient opportunity of offering compensation must be given to the authority or officer.<sup>2</sup> But no matter or things done or contracts entered into *bonâ fide* for the purpose of executing the Public Health Acts subject authorities or officers to any action, liability, claim, or demand.<sup>3</sup>

In addition to the *mandamus*, which is by far the most important of the writs issuing from the High Court and affecting local administration, a writ of *certiorari* may be applied for by any person aggrieved by a disallowance of a district auditor<sup>4</sup> or in order to remove an order of the council of a borough for the payment of money,<sup>5</sup> and writs of prohibition may be obtained directing local authorities to refrain from doing particular acts which

<sup>1</sup> Compare Public Health Act, 1875, ss. 42 and 43.

<sup>2</sup> Public Authorities Protection Act, 1893, s. 1.

<sup>3</sup> Public Health Act, 1875, s. 265.

<sup>4</sup> *Ibid.*, s. 247.

<sup>5</sup> *Ibid.*, s. 246.

they are not empowered to do or are prohibited from doing.<sup>1</sup>

It is, however, in the performance by the local authority of their duty to enforce the various laws that resort to the courts is most frequent. Even in those cases where in default of the owner or occupier complying with the notice of the sanitary authority, the authority are empowered to do the necessary work and charge the defaulter with the expenses, such expenses must in the last resort be recovered by an appeal to the courts; and where such a remedy does not lie an order of a court must be sought by the local authority.

There are, however, some rather significant tendencies developing during recent years. There is, firstly, the growth of the appellate jurisdiction of the Local Government Board,<sup>2</sup> and, secondly, the appropriation by or endowment of the local authorities with *quasi*-judicial functions. It is the practice of some public health committees to summon before them persons who may be charged with breaches of the law, as in cases of offence against the Food and Drugs Acts, the Diseases of Animals Acts, or the smoke nuisance clauses of the Public Health Act, and to persuade such persons to agree to be dealt with by the committee, who, after hearing evidence and explanations, inflict penalties. It is by no means certain that this procedure is to be commended, although it is embodied in the Milk and Cream Regulations of 1912,<sup>3</sup> which provide that before the local authority institutes proceedings against any person for a contravention of any of the regulations they shall afford him an opportunity of furnishing an explanation in writing or otherwise as they may appoint, and shall duly consider any such explanation and all the circumstances of the case. The obvious objections to these methods are that innocent

<sup>1</sup> Compare Public Health Act, 1875, ss. 17 and 19, and cases thereunder.

<sup>2</sup> See Chapter XXV.

<sup>3</sup> Article VI.



persons may often elect to be fined by the committee as being a cheaper course than fighting the case against a powerful authority in the courts; it destroys publicity, which is often more than half the punishment, especially in cases of food adulteration; and finally, and perhaps most important, it puts a duty upon councillors that they were never intended to fulfil, and gives opportunity for the exercise of favouritism, if not corruption, to those who may be so inclined.

The Housing and Town Planning Act, 1909,<sup>1</sup> gives local authorities distinctly judicial powers in respect to houses which appear to them to be "in a state so dangerous or injurious to health as to be unfit for human habitation."<sup>2</sup> They may make a "closing order" prohibiting the use of such a house for human habitation until in their judgment it is rendered fit for such purpose, appeal lying, not to a court of law but to the Local Government Board within fourteen days after the order is served upon the owner. A similar appeal lies within fourteen days of the local authority refusing, on the application of the owner, to determine the "closing order." Where such an order has remained operative for six months the local authority must take into consideration the question of the demolition of the house, each owner being entitled to a month's notice of such proceeding, and to be heard when the question is considered. If the house has not been rendered fit for habitation, or either cannot be so rendered or the necessary steps for the purpose are not being taken with all due diligence, the authority must make a "demolition order," the owner having the right of appeal to the Local Government Board within twenty-one days from the service of the order upon him. The judicial character of these functions was well brought out in the course of a recent case. An owner appealed to the Board against a "closing order," and the

<sup>1</sup> Sections 17 and 18.

<sup>2</sup> See tabulated statements of orders, &c., at end of Chapter XIV.

Board, after a local inquiry,<sup>1</sup> dismissed the appeal and confirmed the order without hearing the appellant. The local authority refused to determine the order, and the owner again appealed to the Board, who again confirmed the action of the local authority without disclosing their inspector's report to the appellant. The latter appealed to the Court of King's Bench, which upheld the decision of the Board, but the Court of Appeal, by a majority, reversed the decision and held that the Local Government Board "must decide the appeal in their capacity of a statutory appellate tribunal in some more judicial way than merely sending a notice that 'after an impartial and careful consideration' the Board decided to dismiss the appeal." This decision was, however, the subject of a further appeal to the House of Lords, where the decision of the Court of Appeal was reversed and the order of the Divisional Court restored, the Lord Chancellor (Viscount Haldane) declaring

"that the Act of 1909 had introduced a change of policy by transferring the jurisdiction both as regards original applications and as regards appeals from courts of justice to the local authority and the Local Government Board respectively, both of them administrative bodies, and although the Board was bound to act judicially, so long as it followed its usual procedure it was not bound either to disclose the report of its inspector or to hear the owner orally." <sup>2</sup>

Apart from these cases, when all other efforts of the local authority and its officers have failed to secure the carrying out of the requirements of the various Acts or to recover the expenses, where they have themselves done the necessary work, recourse must be had to the courts of law. As a rule the court to which application must be made is a court of summary jurisdiction, from which appeal usually lies to a court of quarter sessions.<sup>3</sup>

<sup>1</sup> See Housing and Town Planning Act, 1909, s. 39.

<sup>2</sup> *Arlidge v. Local Government Board*, [1913] 1 K. B. 463; [1914] 1 K. B. 160; and [1914] W. N. 328.

<sup>3</sup> See Interpretations Act, 1889, for definitions.

To this, however, there are specific exceptions, such as in the case of the Rivers Pollution Act, 1876,<sup>1</sup> in which the county court is specified, or for the recovery of penalties for the pollution of water,<sup>2</sup> action for which may be taken in the superior courts. The persons who may take action may be either a local authority, an aggrieved party, or someone expressly authorised as required for the particular purpose ; but the last two classes are only empowered to take action in specific cases. Thus, to enforce the provisions of section 41 of the Public Health Act, 1875, action is restricted to the local authority, whilst for the purpose of dealing with polluted wells the power is extended to "any person."<sup>3</sup> Any aggrieved person is empowered to institute proceedings in respect to offences under the Rivers Pollution Act, 1876,<sup>4</sup> the consent of the Local Government Board to such proceedings being necessary both for a person aggrieved or a local authority if the offence is created by Part III. of the Act.<sup>5</sup> In like manner proceedings to recover penalties for the pollution of water require the consent of the Attorney-General,<sup>6</sup> and the authorisation of a justice of the peace or of the Local Government Board is required to enable a police officer to secure the abatement of nuisances.<sup>7</sup> Wherever a local authority is of opinion that summary proceedings would afford an inadequate remedy they may take proceedings in any superior court of law or equity to enforce the abatement or prohibition of any nuisance under the Act, or for the recovery of any penalties from or the punishment of any person offending against its provisions relating to nuisances.<sup>8</sup>

As a general rule the alleged offence must have arisen

<sup>1</sup> Section 8.

<sup>2</sup> Public Health Act, 1875, ss. 68 and 69.

<sup>3</sup> *Ibid.*, s. 70.

<sup>4</sup> Section 8.

<sup>5</sup> Section 6.

<sup>6</sup> Public Health Act, 1875, ss. 68 and 69.

<sup>7</sup> *Ibid.*, ss. 105 and 106.

<sup>8</sup> *Ibid.*, s. 107.

within the district of the justices before whom it is heard, but their jurisdiction extends to cases arising within 500 yards of the boundaries of their district or within a river, lake, or arm of the sea forming such boundary, or where the offence was either begun or finished within their district. It is, however, an invariable custom of local authorities to take proceedings at their own district courts, except in certain cases, *e.g.*, when a nuisance arises outside their district<sup>1</sup> or from an offensive trade outside their district,<sup>2</sup> or in order to inspect cows and premises outside their district,<sup>3</sup> when application must be made to justices having jurisdiction within the district where the premises are situated.

The procedure is by information, which must not specify more than one offence, and which must be laid within six months of the date when the offence arose ; the time is limited to twenty-eight days from the date of purchase of the alleged adulterated food for the purposes of the Food and Drugs Acts.<sup>4</sup> The information must be written, specifying the offence, signed by an officer of the authority, and sworn to before a justice of the peace, who issues a summons to the offender to attend before the court at a specified date and time.

The proceedings of the court, which may consist of not less than two justices of the peace or a stipendiary magistrate, are regulated by the various Summary Jurisdiction Acts. It is not desirable that a member of a local authority which is a party to the proceedings should adjudicate, but certain permissions to do so are given in various Acts<sup>5</sup> ; and it is not necessary that a justice of the peace who has condemned food under section 116 of the Public Health

<sup>1</sup> Public Health Act, 1875, s. 108.

<sup>2</sup> *Ibid.*, s. 115.

<sup>3</sup> Infectious Diseases Prevention Act, 1890, s. 4 ; compare Milk and Dairies Act, 1914, s. 15.

<sup>4</sup> Food and Drugs Act, 1899, s. 19.

<sup>5</sup> Public Health Act, 1875, s. 258 ; compare Municipal Corporations Act, 1882, s. 158, and Justice of the Peace Act, 1867, s. 2.

Act, 1875, should adjudicate in any subsequent proceedings.

Upon the particular officer concerned in the case falls the duty of obtaining and preparing the necessary evidence for the prosecution, which may involve the calling of witnesses by "witness summons" if otherwise unwilling, and the calling for any necessary documents by subpœna obtained from the Crown Office. The evidence, of course, varies with the case, but it must include proof of the existence of any local Act, bye-law or regulation, or of the adoption of an adoptive Act relevant to the case, and evidence that all the necessary procedure has been carried out, including in some cases a diligent search for the owner of the property involved, notices served, and observations or inspections made. As regards the appearance of the authority at the court the practice varies; in many cases the inspector of nuisances appears, in others the medical officer of health, in a few the clerk, and in some of the large county boroughs a special prosecuting solicitor is on the town clerk's staff and takes charge of all cases.

The defendant or defendants, where a nuisance is wholly or partly caused by their joint acts or defaults,<sup>1</sup> may appear either personally or by solicitor or counsel, the court being enabled in default to either issue a warrant, adjudicate the case in his absence or adjourn it to a future date. It is, however, essential, if the penalty may be imprisonment without the option of a fine, that the defendant be warned before the case that he may elect to be tried by a jury, since he may not exercise the option after the case is opened, and neglect to warn him of it invalidates the proceedings.

The penalties are prescribed in the various sections of the different Acts creating the offences, the court having power to order the costs to be paid. Failure to pay the penalties inflicted may be met by imprisonment in default of distress, but a defendant cannot be committed to prison

<sup>1</sup> Public Health Act, 1875, s. 255.

for failure to obey an order to pay the expenses incurred by an authority, except by an order made on a judgment summons on proof that he has or has had means of paying.

Any decision of a court of summary jurisdiction may be the subject of an appeal to the Court of King's Bench on either a point of law or excess of jurisdiction.<sup>1</sup> For this purpose application for a "special case" must be made to the justices within seven days of the decision contested, accompanied by a guarantee to prosecute the appeal and for costs. If the "case" is refused the King's Bench may order the court to state the case as required; if granted, the appeal must be lodged within three days, notice to all parties being given, the decision of the King's Bench, which may make any order or remit the case back for decision, being final.

Where the penalty may not be enforced by imprisonment in default of distress, appeal may be made within twenty-one days to the next court of quarter sessions, notice being given to the other parties and to the court of summary jurisdiction within fourteen days of the decision of the court, together with the ground of appeal and security for costs. The decision of the court is final unless it thinks fit to state the facts specially for the determination of a superior court.<sup>2</sup>

In the case where local authorities are entitled to recover expenses in a summary manner or to declare them to be private improvement expenses any person aggrieved may object to the apportionment of the surveyor within three months of the service of the demand,<sup>3</sup> and may appeal to the Local Government Board within twenty-one days of the final decision of the authority, stating the ground of complaint and delivering a copy to the local authority. The Board may make such order as seems equitable, and the order made is binding and conclusive on all parties.<sup>4</sup>

<sup>1</sup> Summary Jurisdiction Act, 1879.

<sup>2</sup> Public Health Act, 1875, s. 269.

<sup>3</sup> *Ibid.*, s. 257.

<sup>4</sup> *Ibid.*, s. 268.

Considering the immense amount of work that sanitary authorities get through, the extent to which they resort to the courts is remarkably small. This, in the main, reflects great credit upon the officials, who perform difficult and oftentimes delicate duties without friction or unpleasantness. But when such action is compelled by the stubbornness or wantonness of various persons the penalties inflicted should be adequate and deterrent. In this respect, especially in the smaller districts, it is often a source of considerable dissatisfaction to officials that after exhausting all their powers of persuasion and patience, and being compelled at last to come to the court to secure the enforcement of the law, the court treats the matter lightly and either makes a simple order or imposes such an insignificant penalty as to encourage rather than deter opposition to administrative action and requirements.

## CHAPTER XX.

### REGISTERS, RECORDS AND REPORTS.

THE performance of so many duties of such diverse kinds necessarily involves an enormous amount of clerical work. Not only have notices to be served and correspondence carried on, but records and registers must be kept up to date either in fulfilment of statutory duties or to enable the officials to make periodical reports to their authority and to the departments of the central Government. Of course, every increase in official activity entails a corresponding increase in clerical work, and this is made more burdensome by the many reports now required by the Local Government Board. An amusing illustration of this difficulty occurred at a meeting of the Bulkington Rural District Council, where, in reply to a question in reference to complaints that he had not made any returns under the Housing Regulations of 1910, the inspector stated that "it would take him centuries" to fill up the book provided for the purpose.<sup>1</sup> The burden is specially felt in the many rural and small urban districts where the inspector of nuisances is the only whole-time sanitary officer and has little or no aid in his office work; and many complain that they must either greatly extend their working hours or neglect inspectorial duties which they feel demand more attention than they can possibly give. Where, as is often the case, the inspector's home is also his office, and his salary is anything under £2 per week, particularly bad cases of official "sweating" arise without public knowledge or protest. Such a condition of things undoubtedly results in many insanitary condi-

<sup>1</sup> *Coventry Herald*, May 5th, 1914.



tions remaining undealt with, and they will remain so until a definite standard of inspectorial staffing, based upon area to be covered, population to be dealt with, and the amount of clerical assistance provided, is insisted upon. Some knowledge of the effect of the demands for information made by the Local Government Board upon the work and hours of sanitary officials has at last found its way into Parliament, but the President of the Board declined to consider the question of a grant to local authorities to meet the cost of providing the information.<sup>1</sup>

The clerical work of a public health department, like that of a business, should be simple and adequate without any duplication ; but, as similar work is being carried on in every sanitary district in the country, there should be a great measure of uniformity in the methods adopted. Unfortunately these desirable points cannot be said to be achieved. In the effort to attain simplicity much duplication arises, and many books, not really necessary if an efficient system of cross-reference is adopted, find place on the office shelves, whilst uniformity is almost unthought of, still less attained.

Referring to lack of uniformity in records of local administration, Mr. G. M. Harris writes :—

“ Each authority thinks its own fashion the best, and consequently anyone who has to study the documents of a number of authorities has to deal with papers of every size and shape, with minutes and reports of councils, committees and sub-committees, sometimes printed one after the other in chronological or other order, sometimes interspersed with the resolutions of the various bodies who consider them . . . it might well be worth while for those concerned to consider whether the public convenience and the interests of knowledge might not be served by some more scientific and more uniform system of documentation than exists at present.”<sup>2</sup>

These remarks are as applicable to public health officers as to the other departments of a local authority, and

<sup>1</sup> Reply to question in the House of Commons, May 25th, 1914.

<sup>2</sup> “ Problems of Local Government,” pp. 154-5.

indicate a problem which might well be dealt with at some of the congresses of sanitary authorities and officials.

Certain persons following specified occupations and various premises at which business of a special nature is carried on are required by statute to be registered, such registration being, as a rule, a condition preliminary to carrying on or sheltering such business. All dairymen, cowkeepers, and milk-sellers are required to register themselves at the office of the local authority, which is not empowered to refuse such registration.<sup>1</sup> Every midwife must notify to the local authority her intention to practise within their district and repeat the notification in January of each year, the authority being required to keep a roll of such midwives and to send a copy to the Central Midwives Board every January, reporting every change due to death or removal.<sup>2</sup> Persons who employ outworkers in certain trades specified by Special Orders of the Home Secretary are required to send before February 1st and August 1st of each year a list of the names and addresses of such persons to the council of the district in which his business premises are situated. The list thus obtained is examined, and addresses in other administrative areas must be forwarded to the councils of those districts and form the basis of a register for the purposes of inspection and supervision.<sup>3</sup>

Before any person may open premises as a common lodging-house it is necessary that he be registered as well as the premises, and it is an offence to carry on such a business unless this has been done by the local authority, which has power to refuse.<sup>4</sup> The local authority has similar powers, but only as regards the premises in the case of slaughter-houses,<sup>5</sup> offensive trades,<sup>6</sup> and canal

<sup>1</sup> Dairies, Cowsheds and Milkshops Orders, 1885 and 1886.

<sup>2</sup> Midwives Act, 1902.

<sup>3</sup> Factory and Workshop Act, 1901, s. 107.

<sup>4</sup> Public Health Act, 1875, ss. 76 *et seq.*

<sup>5</sup> *Ibid.*, ss. 169 and 170.

<sup>6</sup> *Ibid.*, s. 112.

boats<sup>1</sup>; but in the first of these cases the licence to use may be an annual one if the Public Health Act Amendment Act, 1890,<sup>2</sup> has been adopted, and the requirements as regards slaughter-houses and offensive trades are not in force in rural districts unless the council has obtained urban powers for the purpose.

Premises used for the manufacture of margarine, margarine cheese, butter and milk-blended butter, as well as those in which the business of wholesale dealer in the first two commodities is carried on, must be registered with the local authority, and the registration, which cannot be refused, must be reported to the Board of Agriculture.<sup>3</sup> The local authority is also required to keep a register of all workshops within their district, the factory inspector supplementing the efforts of the local officials by forwarding notice of the occupation of such premises to the local authority.<sup>4</sup>

For the purpose of the Public Health (Tuberculosis) Regulations, 1912, the duty of keeping a register of notifications of tuberculosis is placed upon the medical officer of health, in whose custody it is to be kept inaccessible to all except persons specially authorised by resolution of the local authority, the county medical officer of health, a local school medical officer, or an official of any Government department authorised for the purpose; the information contained therein is to be regarded as strictly confidential.<sup>5</sup>

As will be seen from the few specimen headings of registers appended to this chapter, pp. 232 *et seq.*, the information recorded varies considerably, a register of margarine or similar factories or wholesale warehouses or of dairies, cowsheds and milkshops containing four heads,

<sup>1</sup> Canal Boats Act, 1877, s. 1.

<sup>2</sup> Section 29.

<sup>3</sup> Margarine Act, 1887, s. 9; Food and Drugs Act, 1899, ss. 5 and 7; Butter and Margarine Act, 1907, s. 1.

<sup>4</sup> Factory and Workshop Act, 1901, ss. 127 and 131.

<sup>5</sup> Public Health (Tuberculosis) Regulations, 1912, art. XI.

whilst those of common lodging-houses or canal boats give much detailed information. As a rule a separate book is kept for each subject, the result being that the vast majority of the pages in each are blank and likely to remain so for ever. A much more economical method is to have a few loose leaves ruled for each subject and kept in one volume by one of the "loose-leaved ledger" devices; such a volume would cost less, occupy less room, and save time in reference or in entering-up, since all or any registrable premises could be at once turned up without moving.

Both medical officers of health and inspectors of nuisances are required to keep records of their official activities, and the reports upon various branches of their work which are specifically demanded of them necessitate such a course; but the methods to be adopted are seldom designated and are determined in general by imitation and habit. In the case of houses inspected for the purposes of section 17 (1) of the Housing and Town Planning Act, 1909, however, the Local Government Board have specifically and fully enumerated the information to be contained in the records which must be kept by every local authority.<sup>1</sup> Such records are for a limited purpose, but they could and should be extended to include all premises within the district, and would in that case form the basis upon which a sanitary survey of the whole area might be built up. The records may be kept in a book or books or on separate sheets or cards. Each system has its advocates, but the last two methods have the merit of elasticity, a great advantage in all districts where building operations are still going on, as every new house can be entered upon a sheet or card and placed in its correct position relative to other premises. A specimen page or card for this purpose is given, together with a page of what may be termed an inspection index. The latter may not comply strictly with the regulations, since it does not directly give all the information asked for; but

<sup>1</sup> The Housing (Inspection of District) Regulations, 1910.

this can be found by reference to the inspector's inspection book, the book in which reports are made to the authority to obtain its sanction to the service of statutory notices, and the books in which copies of letters and notices are kept, and it has the great advantage of enabling anyone to determine, almost at a glance, the particular portions of the district which have, for good or bad reasons, lacked inspection over a series of years.

### FORM OF CARD RECORD.

Address  
Description

Water supply  
Drainage

Closet accommodation  
Storage of refuse

Date of Inspection.	Inspected by.	Reason for Inspection.	Defects Found.	Action Taken.	Rent and Tenancy.	Remarks.
		(Sketch	plan of	drainage	on back).	

### FORM OF INSPECTION INDEX.

Road, Street, or Lane.

No.	Description, &c.	1914.	1915.	1916.	1917.	1918.	1919.
1	6 and retail shop. P. M.; w.c.	$\frac{1}{2}$ D.					
2	5, S.L. (1) C.; w.c.	$\frac{3}{5}$ C. (7/6)					
3	5 P. C.; M.	$\frac{4}{7}$ S.F. (7/-)					
4	6 T. (2) M.; w.c. (2)	$\frac{1}{2}$ C. (4/6 each) $\frac{3}{8}$ S.F.					

*Abbreviations.*—Figure = No. of rooms. Tenancy—P = private; S.L. = sub-let; T. (1 or 2, &c.) = tenements. Water

supply—M. = from main ; C. = from cistern ; W. = from well. Closet accommodation—w.c. = water-closet ; e.c. = earth-closet ; m = midden. Reason for particular inspection—C = complaint ; D = diphtheria ; S.F. = scarlet fever, &c. The fractions indicate day and month of inspection.

In column 2 may be stated the number of rooms, and, by the use of initials or abbreviations the use to which premises are put, tenancy, system of water supply, and closet accommodation. So far the information afforded is similar to that of the card record, but in the following columns are entered dates of inspection in black ink if no action is necessary, in red ink if notice is served to secure the removal of defects found, with initial letters indicating any special reason, such as infectious disease or a complaint, for visit ; the rent may be inserted in parenthesis, and will ultimately form a valuable index of rent movements. Such a system saves much time in entering up, enables speedy reference to sources of further information, and adequately serves the purpose for which such a record is required.

At the periodical meetings of the committee having charge of sanitary administration reports of the work performed during the intervening periods are presented by the medical officer of health, inspector of nuisances, medical superintendent of the hospital, and the public analyst, sanction is asked for acts needing it, and matters upon which instructions are required are presented. The information contained in these reports forms the basis of the annual reports which must be made by the various officers. The main lines of such reports are specified in the orders prescribing the duties of the officials concerned, those affecting the medical officer of health being as follows<sup>1</sup> :—

“ In addition to any other matters upon which he may consider it desirable to report, his annual report shall contain the information indicated in the following paragraphs ; together

<sup>1</sup> Sanitary Officers (Outside London) Order, 1910, art. XIX., s. 14.

with such further information as we may from time to time require :—

- “(a) An account of any influences threatening the health of the district, the prevalence of infectious or epidemic diseases therein, and the measures taken for their prevention.
- “(b) An account of all general and special inquiries made during the year.
- “(c) An account of the work performed by the inspector of nuisances during the year, including the statement supplied in pursuance of article XX. (16) of this Order.
- “(d) A statement as to the conditions affecting the wholesomeness of the milk produced or sold in the district.
- “(e) A statement as to the conditions affecting the wholesomeness of foods for human consumption, other than milk, produced or sold in the district.
- “(f) A statement as to the sufficiency and quantity of the water supply of the district and of its several parts, and in areas where the supply is from waterworks, information as to whether the supply is constant or intermittent.
- “(g) A statement as to the pollution of rivers or streams in the district.
- “(h) A statement as to the character and sufficiency of the arrangements for the drainage, sewerage and sewage disposal in all parts of the district.
- “(i) A statement as to the privy, water-closet, and other closet accommodation in the district, including information as to the approximate number of each type of privy and closet.
- “(j) A statement as to the character and efficiency of the arrangements for the removal of house refuse, and the cleansing of earth-closets, privies, ashpits, and cesspools in the district.
- “(k) A statement with regard to the housing accommodation of the district as required by article V. of the Housing (Inspection of District) Regulations, 1910, and an account of any other action taken by the council under the Housing, Town Planning, &c., Act, 1909, bearing on the public health.
- “(l) A statement as to the vital statistics of the district, including a tabular statement, in such form as we may from time to time direct, of the sickness and mortality within the district.
- “(m) Where the medical officer of health is appointed by the council of a county borough, or by a council

having delegated powers under the Midwives Act, 1902, a statement as to the administration of that Act in the district."

The inspector of nuisances is required as soon as practicable after the 31st day of December in each year to furnish the medical officer of health with a tabular statement containing the following particulars<sup>1</sup> :—

- " (a) The number and nature of inspections made by him during the year.
- " (b) The number of notices served during the year, distinguishing statutory from informal notices.
- " (c) The result of the service of such notices."

The like duty of the officers of a port sanitary authority is similarly prescribed. The medical officer of health shall as soon as practicable after the 31st day of December in each year make an annual report to the port sanitary authority, up to the end of December.<sup>2</sup>

" The report, in addition to any other information which he may consider it desirable or be required by us to give, shall comprise :—

- " (a) Tabular statements (so far as he shall have been able to obtain the information) as to the sickness and mortality of persons on shipboard within the district, classified according to diseases, ages, and vessels.
- " (b) A summary of the action taken by him during the year for preventing the spread of disease.
- " (c) An account of the proceedings in which he has taken part or advised under the Acts, orders and regulations relating to matters of public health and the examination of foods in force within the district.
- " (d) An account of the work performed by the inspector of nuisances during the year, including the statement supplied in pursuance of article XX. (12) of this Order."

And the sanitary inspector is required, as soon as practicable after the 31st day of December in each year, to

<sup>1</sup> Sanitary Officers (Outside London) Order, 1910, art. XX., s. 16.

<sup>2</sup> Sanitary Officers (Ports) Order, 1910, art. XIX., s. 13.



furnish the medical officer of health with a tabular statement containing the following particulars <sup>1</sup> :—

“(a) The number of inspections made by him during the year, and the number of ships and vessels in respect of which such inspections were made.

“(b) The number and nature of the sanitary defects found, as a result of inspection or otherwise, to exist upon ships and vessels or elsewhere within his district during the year.

“(c) The number of notices served during the year, distinguishing statutory from informal notices.

“(d) The result of the service of each notice ; [and] if he has been appointed, with our consent, to act as an assistant officer under the Public Health (Regulations as to Food) Act, 1907, and the regulations made thereunder, he shall add to the tabular statement as required above :—

“(e) An account of the action taken by him under the said Act and regulations.”

The orders prescribing the duties of the county medical officer of health require him, as soon as practicable after the 31st day of December in each year, to make an annual report to the county council up to the end of December on the sanitary circumstances, the sanitary administration, and the vital statistics of the county.<sup>2</sup>

“In addition to any other matters upon which the medical officer of health may consider it desirable to report, his annual report shall contain the following sections :—

“(a) A digest of all annual and special reports made by the medical officers of health of all county districts within the county ;

“(b) a section as to the isolation hospital accommodation available for each county district and as to the steps which should be taken to remedy any deficiencies which may exist ;

“(c) a section on the administration of the Housing of the Working Classes Acts, 1890 to 1909, within the county ;

“(d) a section on the water supply of the several county districts within the county ;

<sup>1</sup> Sanitary Officers (Ports) Order, 1910, art. XX., s. 12.

<sup>2</sup> County Medical Officers of Health (Duties) Order, 1910, art. 7.

- “(e) a section on the pollution of streams within the county and as to the steps for the prevention of pollution taken :—
- (i.) by the local authorities, and
  - (ii.) by the county council ;
- “(f) a section on the administration within the county of the Midwives Act, 1902 ; and
- “(g) a section on the administration of the Sale of Food and Drugs Acts, 1875 to 1907, within that part of the county in which the county council have jurisdiction for the purposes of those Acts.”

The content of these annual reports is considerably extended by the provisions of Acts imposing special sanitary duties. The medical officer of health not only has to notify the factory inspector of every case where a woman, young person, or child is employed in a workshop in which no abstract of the Act is affixed <sup>1</sup> and to report to him whatever action has been taken as regards any complaint forwarded by him to the medical officer of health,<sup>2</sup> but he is required to report specifically, in his annual report, on the administration of the Act in workshops and workplaces, and to send a copy of such report to the factory inspector.<sup>3</sup> This is usually summarised in five tabular statements as follows :—

- (1) Number of inspections made, notices served, and prosecutions undertaken in reference to each class of premises.
- (2) Number and nature of defects found and remedied, or referred to the factory inspector.
- (3) Number of outworkers in the specified trades, and administrative action and results.
- (4) Number of workshops on the register, important classes being specially enumerated.
- (5) A summary of miscellaneous administrative matters.

All sanitary authorities are required to furnish the Local Government Board with an annual report of their adminis-

<sup>1</sup> Factory and Workshop Act, 1901, s. 133.

<sup>2</sup> *Ibid.*, s. 5.

<sup>3</sup> *Ibid.*, s. 132.

tration of the Canal Boats Acts, 1877 and 1884, and the regulations thereunder within twenty-one days of December 31st of each year,<sup>1</sup> the information required being prescribed as follows<sup>2</sup> :—

- (1) Arrangements for inspection, and name, address and remuneration of inspector.
- (2) Number and condition of boats inspected, and their occupants.
- (3) Infringements of the law as regards registration, notification of change of master, certificates, marking, overcrowding, separation of sexes, cleanliness, ventilation, painting, provision of water cask, removal of bilge water, notification of infectious disease, admittance of inspector.
- (4) Legal proceedings and results.
- (5) Other steps taken to secure compliance with the law.
- (6) Infectious diseases dealt with and measures of isolation adopted.
- (7) Detention of boats for cleansing and disinfection.

In case of registration authorities :—

- (8) Number of boats on register, showing—
  - (a) Number believed to be in use or available ;
  - (b) Number not traced ;
  - (c) Number registered and re-registered on account of structural alterations.

The regulations as to unsound food require a record to be kept by the sanitary authority of any articles of food destroyed or disposed of under their provisions, and the Local Government Board suggest that the annual report of the medical officer of health should contain an abstract of such records, together with an account of the proceedings taken to give effect to the regulations.<sup>3</sup>

<sup>1</sup> Canal Boats Act, 1884, s. 3.

<sup>2</sup> Local Government Board Circular, December 17th, 1909.

<sup>3</sup> Public Health (Unsound Food: First Series) Regulations, 1908, art. VII., and Local Government Board Circular thereon, September 16th, 1908.

Each public analyst is required to furnish quarterly reports to the local authority appointing him, specifying the number of articles analysed by him during the quarter, the result of each analysis, and the sum paid therefor, and the local authority must transmit to the Local Government Board a copy of such report as soon as it has been submitted to them.<sup>1</sup> The Board have, however, more precisely prescribed the information which they desire these reports to contain under the following heads <sup>2</sup> :—

- (1) Administrative action in regard to samples reported against.
- (2) Administrative action in regard to offences other than adulteration.
- (3) Action under Acts other than the Food and Drugs Acts, 1875 to 1907.
- (4) Information in regard to “ appeal to the cow ” samples.
- (5) Preservatives.
- (6) Informal or test samples.
- (7) Samples submitted by private purchasers.
- (8) Samples submitted by sanitary authorities.
- (9) Comparison of milk samples.
- (10) Remuneration of analyst.
- (11) Action under the Public Health (Milk and Cream) Regulations, 1912.
- (12) Any annual or special reports bearing on the subject.

The circular recommends county councils, in order to prevent overlapping, to supply sanitary authorities, who have not power to appoint public analysts, but who supplement the work of the county councils by obtaining and submitting samples, with information as to their work in their respective districts.

The annual reports of the medical officer of health and

<sup>1</sup> Food and Drugs Act, 1875, s. 20.

<sup>2</sup> Local Government Board Circular, December 17th, 1913.

inspector of nuisances deal in a comprehensive way with the health of the population and the sanitary condition of the district. They include the special reports already dealt with, and in the bulk contain an immense amount of information of value to the economist and the sociologist. The Local Government Board have enumerated the subjects upon which they desire not only definite general information, but the record of changes of condition incidentally or by the action of the local authority.<sup>1</sup> These are :—

- (1) Physical features and general character of the district and general conditions of its population.
- (2) The chief occupations of the inhabitants and influence of any particular occupation on public health.
- (3) Housing accommodation: Its adequacy, fitness and general conditions. Action taken or needed under the Housing of the Working Classes Acts.
- (4) Water supply: Its source, nature, sufficiency, wholesomeness and liability to pollution, &c.
- (5) Milk supply: Its character and wholesomeness. Condition of sources of supply. Administrative action in regard to milk.
- (6) Other food: Action in regard to unsound and adulterated food. Condition of premises where foods are prepared, stored or exposed for sale.
- (7) Sewerage and drainage: Its sufficiency and condition, and methods of disposal of sewage.
- (8) Pollution of rivers and streams: Action taken to check it.
- (9) Removal and disposal of house refuse and excrement: System and methods in vogue.
- (10) Nuisances: Administrative action and results.
- (11) Registered premises and bye-laws for their regulation.
- (12) Schools: Sanitary condition and action taken in

<sup>1</sup> Local Government Board Circular and Memorandum, December 2nd, 1908.

relation to health of scholars and prevention of spread of infectious disease.

- (13) Infectious disease: Administrative action; sufficiency and efficiency of hospital accommodation.
- (14) Control of tuberculosis: Cases notified and action taken in respect of cases and deaths. Hospital accommodation.
- (15) Infectious disease: Administrative action and investigations.
- (16) Administration of Midwives Act in relation to puerperal fever and Notification of Births Act in relation to infant mortality. Measures taken to reduce mortality.
- (17) Vital statistics.
- (18) Births and deaths for a series of years, classified.
- (19) Births and deaths of non-residents, &c.

In addition to and in illustration of the above information tabular statistical statements are required dealing with :—

- (1) Vital statistics of the whole district for the year reported upon, similar figures being given for previous years.
- (2) Cases of infectious disease notified, classified under disease, age, and locality (parish or ward).
- (3) Causes of, and ages at, death of all persons dying during year.
- (4) Infantile mortality: Deaths classified under disease and age.

Many other statements are to be found, including a statistical summary of the inspector's work, generally and in detail as regards particular premises.

For the year 1911 the Local Government Board received 1,820 annual reports from the medical officers of fifty-eight of the sixty-two counties, 1,809 of the 1,820 sanitary districts, and the sixty port sanitary districts. In no case was it necessary for the Board to certify a medical

officer of health to be in default in sending his annual report for the year 1911, four county medical officers not having been appointed in time to make an annual report ; and in the case of eleven sanitary districts there were no reports on account of vacancies in the office of medical officer of health, the number being made up by twenty reports received from nine rural districts having more than one medical officer of health. One thousand six hundred and thirty-two of the reports were printed and 188 typed or in manuscript, but the Board have impressed upon local authorities the advantages of having the reports printed, and they record that in several cases their efforts have been successful.<sup>1</sup>

Some medical officers of health content themselves with a bald statement of fact just sufficient to comply with the requirements of the Local Government Board, but others, grasping the advantages which their position gives them, not only illumine their reports with detailed explanations, but by the collection and comparison of data are able to suggest theories of the greatest value. Such reports often serve a useful purpose by focussing public attention upon some insanitary condition, and on this account some local authorities have endeavoured, generally unsuccessfully, to alter or amend reports which reflected unfavourably upon their use of the powers they possess. The reports are carefully considered by officers of the Local Government Board, and frequently form the starting-point of efforts of that Department to persuade or compel the local authority to carry out works required to improve the sanitary condition of the district. No attempt, however, is made by the Board, except in the case of vital statistics and one or two other matters,<sup>2</sup> to summarise the general work of sanitary officials throughout the country. The President of the Local Government

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xliv.

<sup>2</sup> Administration of the Canal Boats and Food and Drugs Acts are two exceptions.

## REGISTER OF SLAUGHTER-HOUSES.

[illegible]

<sup>2</sup> For detailed information on this subject see Public Health section of "Municipal Office Organisation and Management," W. Bateson (Ed.).





## CHAPTER XXI.

### TOWN PLANNING AND IMPROVEMENT.

As a unit of the local administration the public health department is engaged in the discovery and abatement of nuisances, the regulation of particular trades and premises, the investigation into and isolation and treatment of infectious disease, and the protection of the food supply. These functions are, as a rule, peculiarly personal ; they bring the department into relation, not with the community as a whole, but with individuals or small groups of individuals. It is for this reason that the possession of courtesy, tact, and a wide knowledge of men and affairs is particularly essential for officials of the department.

The sanitary authority is, however, endowed with other powers and duties which involve complex engineering and architectural questions, the construction of various works and buildings, and often the establishment of special departments with officials equipped with experience, knowledge, and skill peculiar to the service in which they are engaged. Such subjects of sanitary administration as the regulation of streets and buildings, the provision of houses for the working classes, town planning, sewerage and sewage and refuse disposal works, water supply and the provision of public abattoirs, markets, baths and wash-houses, burial grounds and crematoria, are, as a rule, matters with which the surveyor or engineer has to deal, at least until they are handed over to the special department into whose charge some of them are usually placed. But all of them affect the public health, and are, either by order of the Local Government Board or on the initiative of the medical officer of health, dealt with in his annual

report ; and in the case of many of them proposals for the performance of the duties or the establishment of the services or institutions usually originate in the public health department. Upon the medical officer of health falls the duty of advising his authority when such duties and works are necessary for the public health, and by his staff are gathered the data upon which his advice is based. Hence, although the work, service, or institution generally passes out of the domain of the public health department, the responsibility of the medical officer of health in the initial stages is very onerous.

In the early years of the nineteenth century the new towns which arose as a result of the concentration of population due to the industrial revolution were constructed without plan, streets were made without regulation, and houses were built without supervision ; out of these circumstances developed many of the sanitary difficulties and problems which later generations had to grapple with. That day is passed, and local authorities now possess extensive powers for regulating the development of estates, defining conditions with which new streets and buildings must comply, and improving conditions which had developed in the absence of supervision and control.

The Public Health Act, 1875,<sup>1</sup> vested all streets repairable by the inhabitants at large of urban districts in the urban authorities, who were empowered to make up, repair, or alter them at their discretion. They were also given powers,<sup>2</sup> extended some years later,<sup>3</sup> to compel owners or occupiers of premises fronting, adjoining, or abutting on private streets to sewer, level, pave, metal, flag, channel, make good, or light such streets to the satisfaction of the authority, after which they might be declared to be public highways repairable by the inhabitants at large. Failure

<sup>1</sup> Section 149.

<sup>2</sup> Sections 150 to 152.

<sup>3</sup> Private Street Works Act, 1892.

to comply with the notice can be met by the authority carrying out the necessary work and recovering the expenses incurred. An urban authority may also deal with the naming of streets and the numbering of houses, take steps to improve the line of streets, remove obstructions, deal with ruinous or dangerous buildings, and prescribe precautions to be taken during the construction or repair of sewers, streets, and houses.<sup>1</sup> It is also empowered to purchase any premises for improving any street or, with the sanction of the Local Government Board, for making any new street,<sup>2</sup> and may regulate the building line where the whole or front of any house or building has been taken down.<sup>3</sup>

As regards new streets and buildings, the important power of making bye-laws has been placed in the hands of urban authorities.<sup>4</sup> These may be made in respect of the level, width, sewerage, and construction of new streets, the structure, drainage, and sanitary arrangements of and air space about new buildings, and for closing and prohibiting the habitation of buildings unfit for human habitation. These powers were extended fifteen years later, and rural authorities were empowered to make similar bye-laws, but for buildings only.<sup>5</sup> Building bye-laws are, in the larger districts, administered from the surveyor's department, building inspectors being employed for the purpose, but in many of the smaller districts the duties are added to those of the inspector of nuisances.

Previous to 1909, although local authorities could regulate the construction of new streets and buildings and take action to remove certain obstacles or dangers to the use of such places, they had no power to take a broad

<sup>1</sup> Public Health Act, 1875, s. 160.

<sup>2</sup> *Ibid.*, s. 154.

<sup>3</sup> *Ibid.*, s. 155; see also Public Health Acts Amendment Act, 1890, ss. 33 to 43.

<sup>4</sup> Public Health Act, 1875, s. 157.

<sup>5</sup> Public Health Acts Amendment Act, 1890, s. 23; see also Public Health Acts Amendment Act, 1907, ss. 13 to 33.

survey of the general conditions of their areas with a view to their development on lines at once healthy, artistic, and convenient. The second part of the Housing and Town Planning Act, 1909, altered this condition of affairs and gave powers to the London County Council and provincial borough and urban and rural district councils to control the future development of their areas by means of town-planning schemes. In the performance of this function they are subject to a rigorous control by the Local Government Board, who have issued numerous regulations prescribing the procedure necessary to secure their consent to the schemes and for carrying them out. It is competent to any authority to ask the Board for permission to prepare a town-planning scheme as respects any land within or contiguous to their area which is in course of development or appears likely to be used for building purposes, the object being to secure proper sanitary conditions, amenity and convenience in the laying out and use of such land. The Board's decision is final, but permission obtained, the next step is to prepare the scheme, which may include land already built upon, and submit it, together with all the necessary plans and information, to the Local Government Board, who may subject it to modifications and conditions. Before the sanction of the Board comes into effect their intention to approve the scheme must be published in the *London Gazette*, and if within twenty-one days of such publication objection is raised by any interested person or authority, the scheme must be laid before each House of Parliament for not less than thirty days, during which time an address against the whole or part of the draft may be presented to the King, and it is thereupon cancelled to that extent. A scheme may be revoked or varied by similar procedure, but otherwise it may be enforced against a defaulting authority by an order of the Local Government Board, made after inquiry and enforceable by *mandamus*. The Board may, in a similar way, compel a local authority to

prepare and submit a scheme, to adopt any scheme proposed and presented by the owners of any land, or to consent to any modifications or conditions imposed by the Board in respect of a scheme prepared by the authority. Provision is made for compensation either by the authority to owners of property injuriously affected by such a scheme or to the authority by the owners of property which is increased in value by the scheme, the expenses incurred being considered as expenses under the Public Health Act, but money borrowed is not subject to the limitations imposed by that Act.<sup>1</sup> In the metropolis the expenses are defrayed out of the county rate, and loans are raised in the same manner as for general county expenses.

The preparation of town-planning schemes needs very careful consideration and the collection of a great deal of data, so that it is not surprising, having in mind the unprecedented nature of the work, to find that up to March 31st, 1913, only twenty-seven local authorities had obtained power to prepare or adopt thirty-three schemes, which dealt with more than 50,000 acres of land.<sup>2</sup> Of these, authority was given for the preparation of eighteen schemes dealing with 36,000 acres of land to sixteen authorities during the last year.<sup>3</sup>

For the improvement of areas already built upon powers are given in the first two parts of the Housing of the Working Classes Act, 1890, and a succession of amending Acts. Part I. deals with unhealthy areas which are represented to the local authority by the medical officer of health as needing an improvement scheme for the rearrangement and reconstruction of the streets and houses within such area, or of some such streets and houses. It is the duty of a medical officer of health to make such representation when he discovers such an area or if his

<sup>1</sup> See Chapter XXIII.

<sup>2</sup> Forty-second Report of the Local Government Board, Part II., pp. lxi. and 66.

<sup>3</sup> *Ibid.*, p. lxxv.

attention is drawn to it by two or more local justices of the peace or twelve or more local ratepayers. If on receipt of such a complaint the medical officer of health fails to inspect the area an appeal may be made to the Local Government Board, who may send an inspector, and, if satisfied that the area is unhealthy, must make a representation to that effect to the local authority. As a rule the preparation of an improvement scheme as well as schemes of town planning and reconstruction become matters for the surveyor or engineer, who consults with the medical officer of health. In the county or city of London the scheme must include the provision of dwelling accommodation for at least half the number of persons displaced, although this need not always be upon the same site ; in the provinces the Local Government Board may require the provision of such accommodation as the local inquiry shows to be necessary. After complying with the preliminary procedure, which includes the publication of the scheme for three consecutive weeks in the same local newspaper and the service of notices upon every owner or reputed owner, lessee or reputed lessee, and occupier of lands proposed to be compulsorily taken, the Local Government Board must be petitioned for an order confirming the scheme. The Board may first direct a local inquiry, but their order is no longer subject to confirmation by Parliament.<sup>1</sup> In the execution of the improvement scheme the local authority may either themselves acquire the land or arrange with the person entitled to the first estate of freehold to carry out the scheme, compensation to certain classes of occupiers and to owners of land compulsorily acquired being provided for. Neglect on the part of the local authority to carry out the scheme may be met by the Local Government Board issuing an order requiring them to remedy the default, the order being enforceable by *mandamus*.

<sup>1</sup> Housing of the Working Classes Act, 1903, s. 5, and Housing and Town Planning Act, 1909, s. 24.

Many notoriously unhealthy areas in different parts of the country have been improved by the use of these powers, for which purpose loans to the amount of £2,706,586 have been sanctioned since 1890, £296,307 of this amount having been authorised since the passing of the Housing and Town Planning Act, 1909.<sup>1</sup>

Part II. of the Act of 1890 relates to unhealthy dwelling-houses or obstructive buildings of which complaint may be made to the local authority by any four inhabitant householders of the district. The medical officer of health is required to represent such houses and buildings to his authority.<sup>2</sup> If the authority fail to exercise their powers, where necessary complaint may be made to the Local Government Board by four inhabitant householders, or, in the case of a rural district, by the county council or the council or meeting of any parish within the district, the power resting with the householders and the county council as respects non-rural districts. The Board, after inquiry, may order the local authority to take the necessary proceedings and may enforce the order by *mandamus*, but in the case of county districts they have the alternative, if the county council consents, of issuing the order to the county council.<sup>3</sup> The power of local authorities to make closing orders in respect of houses certified as unfit for human habitation and demolition orders where they are not rendered fit has been already referred to,<sup>4</sup> but the local authority, upon the representation of the medical officer of health or the county council, may deal with buildings which, whilst not themselves being unfit for habitation, are so obstructive as to render others unfit. Such a building may be ordered to be demolished, failure to do which may be met by the local authority acquiring the property and doing the necessary work, compensation to

<sup>1</sup> Forty-second Report of the Local Government Board, Part II., p. 8.

<sup>2</sup> Housing of the Working Classes Act, 1890, ss. 30 and 31.

<sup>3</sup> Housing and Town Planning Act, 1909, s. 10.

<sup>4</sup> See Chapter XIX.



the owner, in case of difference, being settled by arbitration. For dealing with cases intermediate between single houses and large insanitary areas the local authority is empowered to purchase by agreement or compulsorily, subject in both cases to the consent of the Local Government Board, any property required for a reconstruction scheme. The object of such a scheme may be either to dedicate the land as a highway or open space, use it or exchange it for land to be used for the erection of dwellings for the working classes, or to remedy the bad arrangement or condition or the sanitary defects of any buildings where the site is too small to be dealt with under Part I. of the Act of 1890. After the usual resolution of the council and notices to owners and occupiers the Local Government Board must be petitioned to make an order sanctioning the scheme, a local inquiry being held if the Board think fit, the usual means of compulsion being adopted in case of default.

This power is a very useful one, and the objects of an improvement scheme may often be attained by its judicious use without the great expenditure involved by proceedings under Part I. The amount of loans sanctioned for this purpose since the passing of the Act reached £141,049 on March 31st, 1913, £5,721 of this amount accruing since 1909.<sup>1</sup>

It has long been felt that the crux of the housing problem is the provision of adequate and healthy housing accommodation; it is not sufficient to pull down insanitary houses—healthy houses must be provided. As so often happens, economic considerations enter here; it is a truism that so long as we have the poor they will be poorly housed unless low or irregular wages are supplemented by the provision of houses at rents which fail to be sufficient to cover the cost of construction and maintenance. To the objection that such a policy creates a

<sup>1</sup> Forty-second Report of the Local Government Board, Part II., p. 10.

privileged and pauperised class it may well be urged as a valid argument that the considerations of public health are worth the expense incurred, and that the effect of decent housing will be to raise the standard of life of those housed, especially the children, improve their economic value as productive agents, and ultimately result in an increase of their remuneration. This is not intended to beg the question against proposals to directly increase or regularise earnings, which is by far the superior method of dealing with the problem, but until this is generally achieved the health of the people must not be sacrificed to the exigencies of economic theory.

Be this as it may, local authorities are, to an increasing extent, utilising their powers of acquiring land within or without their districts and erecting thereon "lodging-houses for the working classes," a term which includes "separate houses or cottages containing one or several tenements," and a cottage may include a garden not exceeding half an acre in extent and an estimated annual value of £3.<sup>1</sup> Land may be acquired by agreement or by compulsory purchase, the order of the Local Government Board being required in the latter case; and houses may also be acquired by agreement, roads may be laid out, and, subject to the Board's consent, part of the land may be used for recreation grounds or for the erection of shops.<sup>2</sup> Complaint of default may be made in the same way, and the Local Government Board have the same powers of compulsion as in the case of Part II., but they must take into consideration the necessity for further accommodation for the housing of the working classes, the probability that such accommodation will not be otherwise provided, and the prudence of placing increased liability upon the rates.<sup>3</sup> In the case of rural districts the county council, if satisfied that a complaint of default

<sup>1</sup> Housing of the Working Classes Act, 1890, s. 53.

<sup>2</sup> Housing of the Working Classes Act, 1903, s. 11.

<sup>3</sup> Housing and Town Planning Act, 1909, s. 10.

is justified, may resolve that the powers of the district council be transferred to them, notice of such intention being given to the Local Government Board and the council concerned.<sup>1</sup> The Board have recently refused their consent to the transfer of such powers from all the rural district councils to the county council of Hertfordshire.<sup>2</sup>

Complaints have been made that the closing and demolition of houses has been increased more rapidly than the work of providing housing accommodation; there is a certain amount of justification for these, but a comparison of the tables dealing with closing and demolition orders<sup>3</sup> with the following statement shows that the local authorities, pressed by the Local Government Board, are making efforts to wipe out the deficit.

LOANS TO LOCAL AUTHORITIES FOR PURPOSES OF PART III.  
OF THE HOUSING OF THE WORKING CLASSES ACT, 1890,  
SANCTIONED BY THE LOCAL GOVERNMENT BOARD SINCE  
THE PASSING OF THE HOUSING AND TOWN PLANNING  
ACT, 1909.<sup>4</sup>

Year ended March 31st.	Urban Authorities.		Rural Authorities.		Total.	
	£	Houses.	£	Houses.	£	Houses.
1910 . .	13,530	78	270	—	13,800	78
1911 . .	102,858	472	250	—	103,108	472
1912 . .	201,566	882	27,585	139	229,151	1,021
1913 . .	343,601	1,549	59,557	331	403,158	1,880
Total .	2,628,286	2,981	134,722	470	2,763,008	3,451
	(131 authorities).		(37 authorities).		(168 authorities).	
Averages for 19 years, 1891-2 to 1910-1 .	104,224	—	2,491	—	106,715	—
Averages for 3 years, 1910-1 to 1912-3 .	216,008	—	29,131	—	245,139	—

<sup>1</sup> Housing and Town Planning Act, 1909, ss. 12 and 13.

<sup>2</sup> See *Local Government Journal*, June 6th, 1914, p. 359.

<sup>3</sup> See pp. 148 and 149.

<sup>4</sup> Forty-second Report of the Local Government Board, Part II., pp. xxxvii. and xxxviii.

## CHAPTER XXII.

### SANITARY SUPPLIES AND SERVICES.

THE Royal Sanitary Commission in their second report (1871) included, amongst other things comprising "the ordinary supply of what is necessary for civilised social life," a supply of wholesome and sufficient water for drinking and washing, provision of sewerage and the utilisation of sewage, removal of refuse, provision of burial for the dead without injury to the living, and regulation of markets. In so doing they rightly recognised that the subdivision of local government which was referred to them was "generally designated in recent legislation as sanitary though it might be, in a wider sense, called economical."

It is important to press this point when considering public health efforts of all kinds. Looked at from a financial point of view, these efforts result on the whole, and usually in detail, in a loss ; the balance is usually on the debit side. But, viewed as benefiting the community, as a provision of "collective goods" <sup>1</sup> which are enjoyed by all, and often to the greatest extent by the poorest members, the financial outlay is amply justified. It is these facts that have deterred private enterprise from any general attempt to provide the supplies and services enumerated above. The public interest and private interests clash ; and to the growing recognition that, in matters of health at least, the interests of the community cannot be left to the mercies of private individuals we owe the increasing extension of the public provision of these supplies and services.<sup>2</sup>

<sup>1</sup> Marshall, "Economics of Industry" (1893), p. 54.

<sup>2</sup> Compare Mill, "Representative Government," Chapter XV.

As water is one of the prime necessities of life, it was inevitable that local authorities should be given the power to provide a supply proper and sufficient for public and private purposes. In order to do this an authority may construct and maintain waterworks, dig wells, and do any other necessary acts, lease, hire or purchase any waterworks or sources of supply, or contract with any person for such supply, and has various powers for regulating the supply and use of and making charges for water.<sup>1</sup> Although from the text of the section (51) this is a power, not a duty, of the local authority, a later section enables the Local Government Board, upon complaint that a local authority has made default, to make an order, enforceable by *mandamus* or executed by a person named in a further order at the expense of the authority, requiring the authority to perform their duty within a stated time.<sup>2</sup> The duty and powers of a rural district council under the Public Health (Water) Act, 1878, to provide or require the provision of a sufficient and wholesome supply of water for every occupied dwelling-house and to ascertain the condition of the water supply within their district may be granted to any urban authority by order of the Local Government Board.<sup>3</sup> The fact that parish councils may utilise any spring, well, or stream within their district<sup>4</sup> does not relieve the rural district council of its duties as regards water supply, the parish council being enabled to complain to the county council where they think the rural district council ought to have provided a water supply and could have done so at a reasonable cost. If satisfied, the county council may thereupon resolve that such duties be transferred to them, or may make an order appointing someone to perform the duty and recover the costs from the defaulting authority.<sup>5</sup>

<sup>1</sup> Public Health Act, 1875, ss. 51 to 67.

<sup>2</sup> *Ibid.*, s. 299.

<sup>3</sup> Public Health (Water) Act, 1878, s. 11.

<sup>4</sup> Local Government Act, 1894, s. 8.

<sup>5</sup> *Ibid.*, s. 16; Public Health Act, 1875, s. 299.

In 1908—1909 there were in the United Kingdom about 1,152 water undertakings belonging to local authorities, which included about two-thirds of the county boroughs, nearly all the non-county boroughs, and about half of the urban district councils in England and Wales. In twelve of the towns the waterworks were originally constructed by the corporations, some of them being several hundred years old.<sup>1</sup> The loans for waterworks outstanding in 1910—1911 amounted to £128,687,495, out of a total local indebtedness of £540,000,000, the amount raised during the year being £2,476,003. The expenditure, otherwise than out of loans, totalled £1,908,980, loan charges bringing the sum up to £5,591,186, over 4 per cent. of the expenditure of local authorities, whilst the receipts amounted to £5,135,155.<sup>2</sup> The methods of acquisition of the supply or its source and of charging for the water vary considerably, and, although big profits are often made, the return which must be looked for is not financial but vital, in public health not pecuniary profit.

The provision of means of quickly and cleanly removing and disposing of waste waters and excremental matters is almost as essential as an abundant supply of pure water ; in practice the latter frequently depends upon the efficiency of the former, and also makes its provision more necessary. There are numerous instances of the good effects of the construction of efficient sewerage and sewage disposal works ; and the general reduction of the disease and death rates from typhoid fever, as well as the practical elimination of cholera, are due in no small measure to the increasing efficiency of this public health service. As may be seen from the following table, there are still less than half of the towns in England and Wales whose sanitary conveniences are in the main on the water-carriage system<sup>3</sup>:

<sup>1</sup> "Municipal Year Book," p. 578. List of authorities and particulars of supplies on pp. 580—592.

<sup>2</sup> Local Taxation Returns, 1910—1911.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. 1. See also detailed analysis of figures on pp. 188 *et seq.*

	Water Carriage.	Con- servancy.	Per cent. on Water- carriage System.
95 large towns . . .	55	40	57·9
146 smaller towns . . .	81	65	55·5
483 towns (5,000—20,000) .	221	262	45·8
Totals . . .	357	367	49·3

The Local Government Board are, however, pressing upon local authorities the necessity for a speedy conversion from the conservancy methods to the water-carriage system, and they report that their efforts are meeting with success.

With certain exceptions the Public Health Act vested all existing and future sewers within the district of a local authority, together with all buildings, works, materials, and things belonging thereto, in that local authority, who may improve or abolish such sewers where it is deemed necessary, must maintain them so as not to be a nuisance or injurious to health, and must not pollute any streams or other water by discharging sewage into them. The sewage becomes the property of the authority immediately it has gone through the drains into the sewer. For the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage any local authority may construct works within or without their district, contract for the use of, purchase or lease lands, buildings, engines, or other things necessary for their purpose, and may contract to supply, upon terms, for a period of less than twenty-five years, any person with sewage.<sup>1</sup>

<sup>1</sup> Public Health Act, 1875, ss. 13 *et seq.*; definition of "drain" and "sewer," s. 4, and Public Health Acts Amendment Act, 1890, s. 19. See also Public Health (Support of Sewers) Act, 1883.

Whilst it is generally agreed that the water-carriage system is by far the better method, great and increasing difficulties are met with when seeking an efficient method of disposing of the sewage. The methods that have been adopted are very numerous,<sup>1</sup> and the Royal Commission appointed in 1898 to inquire into the matter, although they have issued several reports, have not yet reached the end of their labours. The amount of loans outstanding in 1910—1911 for the purposes of sewerage and sewage disposal works totalled £42,322,260, the amount raised during that year reaching £2,142,332; the expenditure, including loan charges, reached £4,824,291, the working expenses being £2,209,958; whilst the receipts only amounted to £284,581.<sup>2</sup> This is a more important instance of a return for expenditure being received in improved public health.

A cognate service with similar objects—*i.e.*, the speedy and cleanly removal and disposal of matters which are offensive or dangerous to health—is the removal and disposal of house refuse and the contents of sanitary conveniences on the conservancy system. Local authorities may, and if required by the Local Government Board must, undertake or contract for the removal of these matters for the whole or part of their district, and may sell or otherwise dispose of them, a daily penalty being recoverable if, when they undertake or are required to do so, they make default after the expiration of seven days from the receipt of notice in writing from the occupier of any house within their district.<sup>3</sup> The Local Government Board frequently exercise their powers in this respect, and in 1912 went so far as to apply for a *mandamus* to compel the Windsor Rural District Council to comply with their order. The council, however, gave an undertaking in the High Court that they would take the necessary steps

<sup>1</sup> See "Municipal Year Book," pp. 927—970.

<sup>2</sup> Local Taxation Returns, 1910—1911.

<sup>3</sup> Public Health Act, 1875, ss. 42 and 43.



within a month and the case was removed from the list.<sup>1</sup>

This service is frequently performed by the public health department, the inspector of nuisances or a special officer being put in charge of the staff necessary for the purpose. The methods of disposal, in contrast to those for sewage, are very few, resolving themselves into two—incineration in a destructor or dumping on waste land, occasionally with a view to its reclamation. The former is the more sanitary method, and is almost imperative for urban districts, where it is often united with various industrial activities, such as the manufacture of paving-slabs from the slag or disinfectant powder from the ash, or the generation of steam or electricity.<sup>2</sup>

The figures for loans for this purpose are not given separately in the returns, but the expenditure during 1910—1911, exclusive of loan charges not allocated, was £2,214,706, the receipts being a negligible quantity.<sup>3</sup>

The advantages of public abattoirs for the purposes of supervision of slaughtering, prevention of cruelty, cleanliness, and the inspection of the meat supply have been already referred to.<sup>4</sup> Any urban district<sup>5</sup> and, with the consent of the Local Government Board, any rural district<sup>6</sup> may provide slaughter-houses and make bye-laws for their use and management, and a number of local authorities have already done so,<sup>7</sup> but few of them yield a profit. The loans outstanding in 1910—1911 amounted to £302,530, of which £12,599 were raised during the year, the expenditure of £39,651, excluding loan charges, being met by a revenue of £48,885.<sup>8</sup>

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xlix.

<sup>2</sup> "Municipal Year Book," pp. 893—926. See note 1 on p. 252.

<sup>3</sup> Local Taxation Returns, 1910—1911.

<sup>4</sup> Chapter XV.

<sup>5</sup> Public Health Act, 1875, s. 169.

<sup>6</sup> *Ibid.*, s. 262.

<sup>7</sup> "Municipal Year Book," pp. 856—858.

<sup>8</sup> Local Taxation Returns, 1910—1911.

In thirty-one districts public slaughter-houses are combined with markets, one-half showing a profit on the financial transactions.<sup>1</sup>

Borough councils, with the approval of two-thirds of their members, and urban district councils, with the consent of the owners and ratepayers in the district, may provide and maintain a market place or house and the necessary appendages, making charges and tolls for its use and bye-laws for its regulation.<sup>2</sup> Rural district councils, with the consent of the Local Government Board, are enabled to do the same by the Public Health Act, 1908. A fair number of authorities have taken advantage of their powers and provided these institutions, which, besides facilitating the supervision of the quality of food-stuffs and the veracity of weights and measures, as a rule show a financial profit.<sup>3</sup> In 1910—1911 the outstanding loans for this purpose amounted to £7,329,207, of which £31,727 were raised during the year; the expenditure reached £511,674, in addition to loan charges amounting to £359,995, against which there was a revenue of £1,003,417.<sup>4</sup>

By a series of adoptive Acts, the first dating from 1846, borough and urban district councils<sup>5</sup> and parish councils (on the adoption of the Acts by the parish meeting<sup>6</sup>) may establish baths and washhouses, adapt them for the purposes of gymnasia, music and dancing, and make bye-laws for the regulation of their use. A large number of local authorities have availed themselves of this power,<sup>7</sup> no district now being considered up-to-date unless facilities for learning and practising swimming are provided. The amount of loans for these purposes outstanding in

<sup>1</sup> "Municipal Year Book," p. 855.

<sup>2</sup> Public Health Act, 1875, ss. 166 and 167, incorporating the Markets and Fairs Clauses Act, 1847.

<sup>3</sup> "Municipal Year Book," pp. 847 to 853.

<sup>4</sup> Local Taxation Returns, 1910—1911.

<sup>5</sup> Public Health Act, 1875, s. 10.

<sup>6</sup> Local Government Act, 1894, s. 7.

<sup>7</sup> "Municipal Year Book," pp. 861 *et seq.*

1910—1911 was £3,235,704, £142,223 being raised during that year, the expenditure of £513,495 being raised to £761,426 by loan charges, to meet which a revenue of £401,264 was received.<sup>1</sup>

The provision of adequate and proper accommodation for the disposal of the dead is one of the most urgent and essential branches of sanitary administration, a long series of Burial Acts, extending from 1852 to 1906, in addition to the Cemeteries Clauses Act, 1847, which was incorporated in the Public Health (Interments) Act, 1879, giving powers to various authorities for the purpose. The majority of the *ad hoc* burial boards have now been abolished in favour of the sanitary authorities, and the distinction between a burial ground and cemetery (chiefly one as to distance from a dwelling within which burial was prohibited) has now been removed by the Burial Act of 1900, which gave the Local Government Board powers and duties relating to their use and sanitation, and left the Home Office with jurisdiction in ecclesiastical matters.

The Cremation Act, 1902, extended the above powers to include the provision and maintenance of crematoria, the plans and site for which must be approved by the Local Government Board, a certificate of a Secretary of State being required before it may be used.<sup>2</sup> Out of about four hundred authorities in Great Britain and Ireland who provide public cemeteries, Hull, Liverpool, and Glasgow have added crematoria.<sup>3</sup>

The amount of outstanding loans for these purposes in 1910—1911 was £3,028,622, of which £98,233 were raised during that year, the expenditure of £462,078 being increased to £720,019 by loan charges, which was partly met by a receipt of £423,233.<sup>4</sup>

Most of these supplies and services have the common characteristic of involving a charge upon the rates, and

<sup>1</sup> Local Taxation Returns, 1910—1911.

<sup>2</sup> Regulations as to use issued March 31st, 1903.

<sup>3</sup> "Municipal Year Book," pp. 879—884.

<sup>4</sup> Local Taxation Returns, 1910—1911.

have often been quoted by unthinking or irresponsible persons as being instances of unsuccessful public enterprise. This is quite erroneous. The primary reason for their provision is the improvement and maintenance of the public health. That they should be conducted as economically as the object to be attained permits must be admitted, but their success is not to be measured in £ s. d., but in the far more elusive standard of vitality and health.<sup>1</sup>

<sup>1</sup> A return *re* scavenging in urban districts issued by the Local Government Board and summarised in the *Municipal Journal*, June 4th, 1915, showed that refuse was removed—

In	Chiefly by Council.	To a large extent by Contract.	Chiefly by Occupiers.
96 great towns (ex. London)	84	12	—
144 smaller towns . . .	109	34	1
482 towns with a population between 5,000 and 20,000	349	129	4
407 towns with a population less than 5,000 . . . .	200	155	52
Totals . . . .	742	330	57

## CHAPTER XXIII.

### PUBLIC HEALTH FINANCE.

FROM the financial point of view one fact about the public health department stands out prominently ; it is essentially a spending, not an earning, department. Its revenue from charges, fees, tolls, fines, and subventions is far below its expenditure. This, to a large extent, explains the inability of the department to attract and keep a large number of the best class of public men closely interested in its work ; it also explains, in part, its unpopularity with ratepayers' associations, and accounts for much of the difficulty of securing adequate remuneration for its officials. The absence of sufficient revenue from other sources necessarily entails recourse to local taxation, ample powers being given to sanitary authorities for the purpose.

As early as 1538 the levy of a distinctly sanitary rate is recorded at Ipswich, where constables were " assigned to several wards to remove nuisances and to levy money to pay carts for their carriage of the filth away." <sup>1</sup> It is probable that levies for such purposes were common in the mediæval towns, for in the previous century at Coventry, by orders of leet, " the sergeants collected every quarter a penny from each citizen dwelling in a house with a hall door, and a halfpenny from every shop to provide a cart which carried away the filth from the streets." <sup>2</sup> These were the forerunners of the present sanitary rates, those levied by improvement commissioners

<sup>1</sup> Cannan, " History of Local Rates," p. 20.

<sup>2</sup> Miss M. D. Harris, " Life in an Old English Town," pp. 291—292.

for various purposes under local Acts being intermediate forms.

The Public Health Act, 1875, which established the present system of sanitary authorities, also defined their powers of raising money to meet the expenditure involved in performing their functions. With a few exceptions the expenses incurred by urban authorities are defrayed out of the general district fund and the general district rate.<sup>1</sup> The general district rate is levied on occupiers of property assessable to the relief of the poor at the full net annual value, except that, as the extent of area is not regarded as a measure of the degree of benefit derived from local sanitary expenditure, agricultural land, railways, canals, and land used for certain horticultural and pastoral purposes are rated on only one-fourth of their value.<sup>2</sup>

The expenses of rural district councils are divided into general, including establishment charges, salaries, cost of disinfection, conveyance of infected persons and all other expenses not designated as special, and special expenses incurred in the provision and maintenance of various services and works in contributory places within the district.<sup>3</sup> Both are met by precepts issued to the overseers of each contributory place, but the former are paid out of a common fund to which all contribute in proportion to their rateable value, whilst the special expenses are defrayed by sums raised by precepts addressed to the overseers of each contributory place benefiting from the service for which the expenses are incurred. The overseers pay the contribution for general expenses out of the poor rate, but levy separate rates for special expenses, the abatement of three-fourths of the assessable value of certain lands being allowed as for the general district rate in urban areas.<sup>4</sup>

<sup>1</sup> Public Health Act, 1875, ss. 207 *et seq.*

<sup>2</sup> *Ibid.*, s. 211.

<sup>3</sup> *Ibid.*, s. 229.

<sup>4</sup> *Ibid.*, s. 230.

There are a number of cases where the owners or occupiers of property have neglected to do certain works required by the local authority, and the latter having done the work is entitled to recover the costs.<sup>1</sup> They may elect to do so by declaring the expenses to be private improvement expenses and levying upon the occupier a private improvement rate sufficient to redeem the debt, with interest not exceeding 5 per cent. per annum, within a period less than thirty years. The occupier may deduct three-fourths of the amount from the rent, and either he or the owner is empowered to redeem the debt at any time.<sup>2</sup> Among the purposes for which such rates may be levied are the drainage of undrained houses,<sup>3</sup> the provision of privy accommodation<sup>4</sup> or water supply,<sup>5</sup> the repair of drains and sanitary fittings,<sup>6</sup> and the making up of private streets.<sup>7</sup>

Out of the general district fund of urban district councils and the common fund of rural district councils are paid the expenses incurred not only in administering the Public Health Acts, but in the performance of many kindred duties imposed by other Acts. Thus, the expenses of administering the Baths and Washhouses Acts,<sup>8</sup> the Canal Boats Acts,<sup>9</sup> the Factory and Workshop Acts,<sup>10</sup> the Alkali Works, &c., Regulation Act, 1906,<sup>11</sup> and the Dairies, Cowsheds, and Milkshops Orders,<sup>12</sup> and any excess expenditure over the agreed amount repaid by the county council to district councils for carrying out delegated duties under the Midwives Act, 1902,<sup>13</sup> are

<sup>1</sup> See table at end of Chapter XIV.

<sup>2</sup> Public Health Act, 1875, ss. 213 to 215 and 232.

<sup>3</sup> *Ibid.*, s. 23.

<sup>4</sup> *Ibid.*, s. 36; Public Health Acts Amendment Act, 1907, s. 39.

<sup>5</sup> *Ibid.*, s. 62; Public Health (Water) Act, 1878, s. 3.

<sup>6</sup> *Ibid.*, s. 41; Public Health Acts Amendment Act, 1890, s. 19.

<sup>7</sup> *Ibid.*, s. 150; Private Street Works Act, 1892, s. 12.

<sup>8</sup> Baths and Washhouses Act, 1846, s. 16.

<sup>9</sup> Canal Boats Act, 1877, s. 8.

<sup>10</sup> Factory and Workshop Act, 1901, s. 14.

<sup>11</sup> Section 24.

<sup>12</sup> Contagious Diseases (Animals) Act, 1886, s. 6.

<sup>13</sup> Section 9.

chargeable to general district and common funds, except that in rural districts the expenses incurred by the adoption of the Baths and Washhouses Acts or in the administration of the Factory and Workshop Acts are special expenses chargeable upon the contributory place in which the baths or factories or workshops are situated.

In several cases, however, the expenses incurred in administering Acts, the duty of which usually falls upon the public health department, are chargeable upon the county funds of the county councils or the borough funds of the borough councils. This occurs where the rural authorities have been ruled out as administrative bodies, and includes expenses incurred for the purposes of the Contagious Diseases of Animals Acts,<sup>1</sup> the Sale of Food and Drugs Acts,<sup>2</sup> Shops Acts,<sup>3</sup> and the Midwives Act, 1902,<sup>4</sup> as well as the Explosives and Weights and Measures Acts, which are often administered from the same department.

Local rates agree with national taxes in being compulsory contributions from the private individual for the public service ; but since the benefit from their expenditure is supposed to be more limited they are leviable over a more restricted area. There is a distinction usually noticed between rates and taxes, which, however, is not of great practical importance—"in the case of Imperial taxation of commodities a duty is imposed upon each unit of consumption. Local taxation reverses this process ; it starts with the gross amount required ; the ratio of the assessed value of the rateable property in the district to this sum gives the rate per £ to be levied, and each occupier pays at this rate on the assessed value of his holding." <sup>5</sup> Far more important is the fact that the

<sup>1</sup> Diseases of Animals Act, 1894, s. 40.

<sup>2</sup> Food and Drugs Act, 1875, s. 29.

<sup>3</sup> Shops Act, 1912, s. 13.

<sup>4</sup> Section 15.

<sup>5</sup> G. Armitage Smith, "Principles and Methods of Taxation," p. 159.



amount of the rate is subject to no legal limitation, except in the comparatively unimportant case of parish councils whose rating powers are restricted to 3*d.* in the £, or, with the consent of the parish meeting, to 6*d.*, plus a further amount to meet expenses incurred through the adoption of various Acts.<sup>1</sup>

It is extremely difficult, if not impossible, to arrive at any figures in respect to public health finance in bulk ; the authorities and rates and the expenses charged upon them are so various as to defy elucidation. The following table does give, however, a general idea of the trend of the incidence of the burden of public health expenditure upon the rates.<sup>2</sup>

—	1874-5.	1884-5.	1894-5.	1905-6.
Sanitary authorities in London and other urban dis- tricts . . . . }	<sup>£</sup> 4,889,000 25·5 p.c. of total rates levied.	<sup>£</sup> 7,934,000 30·9 p.c.	<sup>£</sup> 11,823,000 34·9 p.c.	<sup>£</sup> 20,512,000 35·2 p.c.
Sanitary and high- way authorities in rural districts }	<sup>£</sup> 2,107,000 11 p.c.	2,393,000 9·3 p.c.	2,526,000 7·5 p.c.	3,500,000 6 p.c.

In considering this table it must be kept in mind that rural districts as they become more populous and their expenses increase obtain the status of or are absorbed into urban districts, so that the absolute and relative figures given above are not fairly comparable as between the two classes of authorities.

In the year 1905—1906 the amount raised by the general district rate, which in the main is for sanitary purposes, was £12,600,000.<sup>3</sup> In 1910—1911 this had

<sup>1</sup> Local Government Act, 1894, s. 11.

<sup>2</sup> "Public Health and Social Conditions" (Cd. 4671), p. 76.

<sup>3</sup> *Ibid.*, p. 74.

increased to £13,826,980, being made up of the following amounts <sup>1</sup> :—

	£
County boroughs . . . . .	5,341,704
Other boroughs . . . . .	3,018,867
Urban districts . . . . .	5,449,685
Hospital boards, &c. . . . .	1,170
Other local authorities . . . . .	15,554

To which must be added £11,016 raised by burial rates levied separately in the following amounts <sup>2</sup> :—

	£
County boroughs . . . . .	2,625
Other boroughs. . . . .	1,537
Urban districts . . . . .	898
Parish councils and meetings . . . . .	2,112
Burial boards . . . . .	3,844

To these receipts must be added revenue derived from various institutions and undertakings, such as markets, slaughter-houses, cemeteries, and water supplies, amounting to some £6,500,000 ; fines, rents and repayments of expenses of works of private improvement, the total of which is uncertain, but probably reaches £3,000,000 ; and, lastly, the subventions from the Exchequer Contribution Account of half the salaries of certain medical officers of health and inspectors of nuisances.<sup>3</sup> As being the only instance, prior to the National Insurance and Finance Acts of 1911, of the sanitary authorities receiving grants in aid, the following figures, showing the salaries of sanitary officers in respect of which such grants were paid, are interesting <sup>4</sup> :—

	£		£
1875-6 . . . . .	57,536	1891-2 . . . . .	154,000
1885-6 . . . . .	71,321	1893-4 . . . . .	185,000
1889-90 . . . . .	75,000	1895-6 . . . . .	221,000

<sup>1</sup> Local Taxation Returns, 1910—1911.

<sup>2</sup> *Ibid.*

<sup>3</sup> Under the Vaccination Act, 1867, s. 5, £13,000 was paid from the same account to public vaccinators.

<sup>4</sup> Figures for 1875—1876 and 1885—1886 from "National and Local Finance," J. Watson Grice, p. 364 ; remainder from Report

	£		£
1897-8 . .	245,000	1905-6 . .	325,000
1899-1900 . .	259,000	1907-8 . .	342,000
1901-2 . .	282,000	1909-10 . .	358,000
1903-4 . .	325,000	1911-12 . .	372,000

As we have already seen in the last two chapters, many of the functions of sanitary authorities involve the execution of costly and enduring buildings and works. It would be manifestly unfair, even if it were possible, to pay for these out of current income; rates would be subject to violent fluctuations, and posterity would reap the benefit of the burden borne by the present generation. To meet this difficulty sanitary authorities have been empowered to borrow money on the security of the rates for these purposes, spreading the repayments over a period tending towards, but seldom reaching, the "life" of the building or works for which the money is borrowed. In this way the burden is borne by those who benefit, at least in the earlier years.

From 1848 to the passing of the Local Government Act of 1858 the General Board of Health sanctioned loans under the Public Health Act, 1848, to the extent of £2,956,178. From this date up to the constitution of the Local Government Board in 1871, the Secretary of State sanctioned, under the Local Government Act of 1858 and the Sewage Utilisation Act, 1865, loans amounting to £7,363,366, and the Local Government Board, since 1871, has sanctioned loans to urban and rural authorities which total £211,007,163.<sup>1</sup> Of course, by no means all of this last amount is connected with public health; lighting (gas and electric), fire stations and appliances, and works of sea defence are included, but the fact that the total sanctioned during the year ending March 31st, 1913

of the Departmental Committee on Local Taxation, p. 9. Salaries of medical officers of health of counties and of officers of many county boroughs are not included.

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. lxxxi.

(£7,477,574, about £5,000,000 of which were for sanitary purposes), is two and a half times as much as was sanctioned during the ten years 1848—1858 indicates the tremendous advance made in the provision of works of enduring utility.<sup>1</sup>

A careful observer<sup>2</sup> has stated that "the mere fact of interference of the Legislature in such matters of mainly local concern, as *e.g.*, public health, argues a strong *prima facie* general interest, and the implied obligation has been met in some measure by subventions, but for the most part by the advances of public credit for the improvement of local sanitation." This was done by empowering local authorities to borrow money from the Public Works Loan Commissioners, who were constituted in 1817, the Public Works Loans Act, 1875, consolidating previous statutes on the subject of the powers of local authorities for obtaining money from the central authority at cheaper rates than it could be obtained in the open market.<sup>3</sup> Since then a long series of Local Loans and Public Works Loans Acts have dealt with the question, but an eminent local financial official gives reasons for doubting the efficacy of these powers by showing that during the decade 1902—1911 only just over 11 per cent. of the loans raised by local authorities were obtained from the Public Works Loan Commissioners, and half of that was during the first three years of the period.<sup>4</sup> In the early days of public health legislation the central authority had great difficulty in persuading local authorities to borrow money; nowadays it puts much greater restrictions upon borrowing, and the check to borrowing from the Public Works Loan Commissioners is probably due to these restrictions.

<sup>1</sup> See Forty-second Report of the Local Government Board, Part III., pp. lxxxi. *et seq.*, for analyses and details.

<sup>2</sup> J. Watson Grice, "National and Local Finance," p. 6.

<sup>3</sup> See Public Health Act, 1875, s. 243; Public Works Loans Act, 1898.

<sup>4</sup> F. Ogden Whiteley, "Notes upon the Raising of Capital by Local Authorities during the last Decade," in *Local Government Chronicle*, July 4th and 11th, pp. 420 and 434.

Local authorities can acquire borrowing powers in two ways—(a) by means of local Acts, which at the instigation of the Local Government Board frequently contain certain checks upon the expenditure of money so raised and provision for the submission to the Board of annual returns showing the manner in which the authority are complying with the statutory requirements as regards the repayment of the money <sup>1</sup> (since 1873 Parliamentary sanction has been given to the borrowing of £160,227,798 by local authorities, £3,341,331 being sanctioned in 1912 <sup>2</sup>); and (b) by clauses in general Acts. For sanitary purposes the chief powers are contained in the Public Health Act, 1875,<sup>3</sup> which empowers local authorities to borrow money on the credit of the fund or rates out of which they are authorised to defray expenses. This may be done by borrowing the money for definite periods from the Public Works Loan Commissioners, or private persons, companies or associations, such as the Co-operative Wholesale Society,<sup>4</sup> or the issue of stock. The most popular method at present may be gathered from the fact that during the ten years 1902—1911, out of £315,000,000 borrowed nearly £33,000,000 was from the Public Works Loan Commissioners and £47,000,000 by the issue of stock.

Apart from loans raised under private Acts, which may be subject to various conditions imposed therein, there are many limitations placed upon borrowing. A copy of the resolution of the local authority, together with any provisional agreements, plans, estimates, and particulars of the existing debt and assessable value of the district, must be forwarded to the Local Government Board,

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xciii.

<sup>2</sup> *Ibid.*, p. xc.

<sup>3</sup> Sections 233 *et seq.* See also Public Health Acts Amendment Act, 1890, s. 52, for powers to issue stock.

<sup>4</sup> The balance-sheet of the English Co-operative Wholesale Society for 1912 shows £2,592,944 invested by the bank department in British corporation mortgages, stocks, &c. Many local societies invest in a similar way.

whose sanction is not as a rule given until after a local inquiry by one of their engineering or medical inspectors.<sup>1</sup> The sanction of the Board must be obtained before the expenditure is incurred, otherwise the expenses may have to be met out of the current rate, as without sanction a loan is void ; and the Board will not give their sanction to borrow for any purpose for which the local authority possess powers under a local Act, except when the local Act requires such sanction as a condition precedent to borrowing.

The chief statutory limitations to the exercise of borrowing powers are <sup>2</sup> :—

- (a) The works must be permanent ;
- (b) The total loans for the purposes of the Public Health Act must not exceed two years' assessable value of the premises assessable in respect of the money borrowed ;
- (c) Sanction cannot be given to any loan without a local inquiry when the loan, with loans outstanding, is in excess of one year's assessable value ;
- (d) Loans must be repaid by instalments or by the accumulation of a sinking fund in not more than sixty years ; and
- (e) Any loans raised to pay off existing loans must not extend beyond the unexpired portion of the period for which the original loan was sanctioned unless the Local Government Board consent, the period not to exceed sixty years in any case.

The limitation on the total amount of loans is, however, subject to some exceptions in more recent legislation ; loans for the purposes of the Small Dwellings Acquisition Act, 1899,<sup>3</sup> the Housing of the Working Classes Acts,<sup>4</sup>

<sup>1</sup> See Public Health Act, 1875, s. 134, and the Epidemic and other Diseases Prevention Act, 1883, for possible exception.

<sup>2</sup> Public Health Act, 1875, s. 234.

<sup>3</sup> Section 9.

<sup>4</sup> Housing of the Working Classes Act, 1903, s. 1. See also Housing and Town Planning Act, 1909, s. 3.

and for town planning<sup>1</sup> are not to be reckoned as part of the debt for the purpose of calculating outstanding loans when a proposal to borrow for the purposes either of those Acts or the Public Health Acts is made ; and loans raised by mortgaging sewage-land or plant are considered an addition to borrowing powers under the Act where they do not exceed three-fourths of the purchase money of the lands.<sup>2</sup>

The time limits for repayment vary according to the purpose of the loan, the general practice being to allow sixty years for land, about thirty years for brick or stone buildings, sewers, water mains, &c., and about fifteen years for refuse destructors.<sup>3</sup> Previous to 1898 loans from the Public Works Loan Commissioners had to be repaid within some period less than twenty years unless the Treasury, on the recommendation of the Commissioners, sanctioned an extension.<sup>4</sup> In this year, however, the period was extended to thirty years,<sup>5</sup> a recommendation from the Local Government Board being required for a longer period.<sup>6</sup> A similar recommendation is required for any advance of money, whatever period is allowed, for the purposes of Part I. of the Housing of the Working Classes Act, 1890,<sup>7</sup> but in the Housing and Town Planning Act, 1909, the period for any purposes of the Housing Acts may be extended to eighty years, and if borrowed from the Public Works Loan Commissioners the interest is fixed at the minimum rate fixed for the time being irrespective of the duration of the loan.<sup>8</sup> In local Acts various times, within limits, are allowed, but the Select Committee on the Repayment of Loans by Local

<sup>1</sup> Housing and Town Planning Act, 1909, s. 65. Compare Electric Lighting Act, 1909, s. 21.

<sup>2</sup> Public Health Act, 1875, s. 235.

<sup>3</sup> Lumley's "Public Health" (7th ed.), p. 539 (note).

<sup>4</sup> Public Works Loans Act, 1875, s. 11.

<sup>5</sup> Public Works Loans Act, 1898, s. 5.

<sup>6</sup> Public Health Act, 1875, s. 243.

<sup>7</sup> Section 25.

<sup>8</sup> Section 3.

Authorities reported in 1902 that they were "quite unable to discover any general principle by which the periods allowed by local Acts have been found."<sup>1</sup> The rates of interest paid for loans varies according to fluctuations in the money market and the credit of the local authority, but loans from the Public Works Loan Commissioners are at present subject to fixed rates of  $3\frac{1}{2}$  per cent. for periods not exceeding thirty years and  $3\frac{3}{4}$  per cent. for periods not exceeding fifty years.<sup>2</sup>

The power of the Local Government Board to control the borrowing of money by local authorities is a very real one. By local inquiries, to which ratepayers are invited by public notice and allowed to state their views, the Board satisfy themselves that the public works are necessary and adapted to the requirements of the locality, that they will last good for at least as long a time as that limited for the repayment of the loan, and that the estimates are not excessive. They also take into consideration the records of the authority as regards previous loans; and when a loan is permitted they satisfy themselves that it is properly applied, being empowered to enforce this by *mandamus*.<sup>3</sup>

In order to prevent illegal expenditure and malversation of the public funds provision is made for the audit of the accounts of sanitary authorities.<sup>4</sup> These must be kept in prescribed forms and made up as required by the Local Government Board. The accounts of borough councils acting as sanitary authorities are exempt from examination and audit by the district auditors of the Board, but provision may be made for such audit in local Acts or by provisional order, made under section 303 of the Public Health Act, 1875, amending local Acts and clauses in the

<sup>1</sup> Grice, "National and Local Taxation," p. 347.

<sup>2</sup> Treasury Minute, September 9th, 1907.

<sup>3</sup> Public Works Loans Acts, 1875, s. 36, and 1878, s. 4.

<sup>4</sup> Public Health Act, 1875, ss. 245 *et seq.*



Act of Parliament confirming the orders.<sup>1</sup> In thirteen towns the audit is carried out by the district auditor, but in the remainder the borough auditors examine the accounts, except in those boroughs where professional auditors are employed under powers given by local Acts. The accounts of other authorities are examined and audited by district auditors with full powers of calling for all necessary papers, documents and information, and of publicly hearing objections which may be made by rate-payers or owners of the district. The auditors may disallow any expenditure which has no legal sanction and may surcharge the persons making or authorising the expenditure. The persons surcharged have the right of appeal to the Local Government Board, who may disallow or remit the surcharges at discretion. Local authorities are, however, permitted to anticipate disallowance by the district auditor by obtaining beforehand the sanction of the Board to any expenditure,<sup>2</sup> in which case the district auditor cannot disallow the item. The fact that the accounts of a local authority have been audited does not, however, bar any interested person from applying to the Attorney-General to obtain an injunction restraining the payment of money under an order of the council for which there is no legal warrant; similar orders of an urban authority which is the council of a borough may be removed into the High Court by a writ of *certiorari* at the instance of any interested person, and if invalid may be quashed.<sup>3</sup>

The extent to which the accounts of sanitary authorities are subject to audit by district auditors and the resultant disallowances and appeals, during the year ending March 31st, 1913, are set out in the following table<sup>4</sup> :—

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xcvi.

<sup>2</sup> Local Authorities (Expenses) Act, 1887.

<sup>3</sup> Public Health Act, 1875, s. 246.

<sup>4</sup> Forty-second Report of the Local Government Board, Part III., pp. xcvi. *et seq.*

Authorities.	Number.	Disallowances.	Appeals.
Metropolitan borough councils .	28	148	50
County councils . . . . .	62	8	10
Town councils . . . . .	13	12	16
Urban district councils . . . .	811	476	175
Rural district councils . . . .	666	238	65
Port sanitary authorities . . .	47		
Joint sanitary boards . . . . .	112		
Isolation hospital committees under Isolation Hospitals Acts . . .	65		
Parish councils <sup>1</sup> . . . . .	6,563	131	35
Parish meetings . . . . .	422	4	3

It is so difficult in many cases to determine definitely what are purely matters of public health, and those which may be so determined are so inextricably mixed up with other matters in the financial transactions of local authorities, that it is impossible to decide with certainty what the annual cost of the public health service is, or to give figures as to the expenditure, income, and loans which may with certainty be said to completely cover the ground. The Departmental Committee on Local Taxation estimated that the expenditure on the main services included in the term public health was £19,160,000 in the year ending March 31st, 1913, being about 14 per cent. of the total expenditure of local authorities, and having, as a set off, receipts other than from rates, amounting to nearly £7,300,000. The expenditure was made up as follows<sup>2</sup> :—

	£
Sewerage and sewage disposal . . .	4,870,000
Waterworks (other than those of the Metropolitan Water Board) . . .	5,720,000
Removal of house refuse, &c. . . .	2,280,000
Parks, open spaces, &c. . . . .	1,460,000

<sup>1</sup> 666 parish councils and 5,262 parish meetings had no accounts during the year.

<sup>2</sup> Report of the Departmental Committee on Local Taxation (Cd. 7315), p. 48.

	£
Hospitals (other than poor law hospitals and those of the Metropolitan Asylums Board) . . . . .	1,380,000
Baths and washhouses . . . . .	800,000
Cemeteries . . . . .	730,000
Housing (including improvement of unhealthy areas) . . . . .	610,000
Salaries of medical officers of health and inspectors of nuisances . . . . .	400,000
Sale of Food and Drugs Acts . . . . .	60,000
Diseases of Animals Act, 1894, and Contagious Diseases (Animals) Acts . . . . .	60,000
Notification of diseases . . . . .	40,000
Unallocated loan charges in respect of "sewerage and sewage disposal," "parks" and "housing," upwards of . . . . .	750,000

For the details as to receipts and loans the annual Local Taxation Returns must be looked to, the analysis, which is not as complete as might be desired, yielding the following figures for the year 1910—1911<sup>1</sup> :—

## EXPENDITURE (NOT OUT OF LOANS) AND RECEIPTS, 1910—1911.

Service.	Expenditure.		Receipts.
	Excluding Loan Charges.	Loan Charges.	
	£	£	£
Baths, washhouses, &c. . . . .	513,495	247,931	401,264
Cemeteries . . . . .	462,078	257,941	423,233
Hospitals, other than poor law . . . . .	1,848,929	495,467	31,863
Housing of the working classes . . . . .	208,789	372,645	490,015
Markets . . . . .	511,674	359,995	1,003,417
Sewerage and sewage disposal . . . . .	2,209,958	2,614,333	284,581
Slaughter-houses . . . . .	39,651	Unapportioned.	48,885
Waterworks ( <i>ex</i> metropolitan) . . . . .	1,908,980	3,682,206	5,135,155

<sup>1</sup> Local Taxation Returns, 1910—1911.

EXPENDITURE (NOT OUT OF LOANS) AND RECEIPTS—*continued.*

Service.	Expenditure.		Receipts.
	Excluding Loan Charges.	Loan Charges.	
	£	£	£
Private street works and other private improvements . . . . .	968,038	392,186	1,307,694
House refuse removal and disposal and street scavenging . . . . .	2,214,706	Unapportioned. 501,274	
Parks, pleasure grounds, &c. . . . .	911,205		
Diseases of Animals and Contagious Diseases (Animals) Acts . . . . .	58,232		
Infectious diseases notification . . . . .	29,738		
Vaccination . . . . .	195,162		
Registration of births, deaths and marriages . . . . .	101,489		

## LOANS RAISED DURING AND OUTSTANDING AT END OF YEAR 1910—1911.

Service.	Loans raised.	Amount outstanding.
	£	£
Baths, washhouses, &c. . . . .	142,223	3,235,704
Burial grounds, cemeteries and crematoria . . . . .	98,233	3,028,622
Dépôts, stables, refuse destructors, &c. . . . .	138,068	4,417,519
Hospitals . . . . .	115,061	5,841,792
Housing of the working classes . . . . .	320,572	10,880,962
Markets . . . . .	31,727	7,329,207
Parks, pleasure grounds, commons, &c. . . . .	302,481	8,574,665
Sewerage and sewage works . . . . .	2,142,332	42,322,260
Waterworks . . . . .	2,531,077	128,687,495
Private street works and improvements . . . . .	321,470	1,336,435

These figures are ample justification for the designation of the public health department as a spending department. With the exception of markets, none of the services show a surplus of revenue over expenditure, and in many cases

a financial revenue is practically non-existent or infinitesimal in proportion to the expense incurred.

We have seen that Parliament has yearly increased the powers and duties, and consequently the expenditure, of sanitary authorities, and that the Local Government Board<sup>1</sup> is constantly endeavouring to obtain a higher standard of efficiency, but without having the best weapon—grants in aid—at their disposal. The burden upon the ratepayers amounts to between £14,000,000 and £16,000,000 annually, towards which sum the only assistance they receive from the national Exchequer is about £200,000, half the salaries of medical officers of health and inspectors of nuisances, whose appointments have been approved by the Local Government Board. This absence of assistance from the central Government has been justified on the ground that the public health service is essentially “beneficial,” it “tends to make the locality in which these services are administered a more attractive place, both for business and residential purposes.” This being so, it is urged that “it is only reasonable that the owners and occupiers of property thus benefited should pay the rates necessary to defray the local authority’s expenses on these services,” and that “any grant in aid would have the effect of relieving them of this equitable obligation.”<sup>2</sup> This was the position adopted in the Report of the Royal Commission on Local Taxation in 1901. Public health expenses were not considered to be “onerous,” *i.e.*, they are not incurred locally for national purposes, and therefore are not entitled to national assistance.

Public opinion, however, has been changing from this position, which, as the means of transport improve and the mobility of population becomes greater both in possibility and in reality, becomes less tenable ; and the demand

<sup>1</sup> See Chapters XXIV. and XXV.

<sup>2</sup> “Reservation to Report of the Departmental Committee on Local Taxation,” by Messrs. Barstow, Harper, and Murray, pp. 106–7.

for a more effective supervision of local authorities by the central Government is due to the growing recognition of the national importance of their services, and is an argument in favour of grants in aid as a help to the local authorities and a means of control for the central authority. This view was adopted by the Departmental Committee on Local Taxation, who devised a new classification of public services which included an intermediate class of "semi-national services" administered by local authorities, but in which "the State has at the same time so marked an interest in their efficiency as to justify a claim to the supervision of their administration," and the expenses of which should be a joint burden on the local and national exchequers.<sup>1</sup>

In this class the Committee, three members dissenting, included public health services. They stated that

"the considerations that may be held to justify grants are not absent from this branch of local government. While the bulk of the benefit conferred by these services is enjoyed by the immediate locality, it is clear that the maintenance of a good standard of public health is no less important to the nation as a whole than the education of its children or the upkeep of its main roads."

And as a lever for improving local administration they considered encouragement by grants in aid as "likely to be more effective than the somewhat cumbersome method of default and *mandamus*." <sup>2</sup>

Dismissing the recommendations of the Minority Report of the Poor Law Commission as being extremely complicated and involving an unnecessary degree of interference with the local administration, the Committee recommended

"that an annual grant should be made to urban and rural district councils, including borough and metropolitan public health authorities, at the rate of sixpence per head of the popu-

<sup>1</sup> Report, p. 15.

<sup>2</sup> *Ibid.*, p. 48.

lation as ascertained at each census. The present grant for sanitary officers should at the same time be abolished, but the Local Government Board should be empowered to draw up regulations making the payment of the full amount of the new grant to any authority conditional on the appointment of a suitable medical officer. The Board should also have the power of reducing or withholding the grant if the local authority has seriously neglected its duties in some matter of sanitary importance which it could be compelled by legal process to carry out."

They also recommended an additional grant of 3*d.* per head of the population in rural districts (£100,000) in lieu of grants under the Agricultural Rates Act and Tithes Rent Charges (Rates) Act, bringing the total grant to £1,000,000.<sup>1</sup>

The attitude of the Government towards such proposals was correctly foreshadowed by the Right Hon. John Burns, then President of the Local Government Board, who in a speech dealing with Exchequer contributions and public health, stated that

"we object to doles and subventions to individuals that would defeat their object, but we are willing with an open mind to consider grants in aid for public health by means of which water supplies, drainage, sewerage and housing can be more reasonably and better assisted in many ways than they are now."<sup>2</sup>

The report was quickly acted upon. The Chancellor of the Exchequer, in introducing his Budget for 1914, announced his adhesion to the principles laid down by the Committee, and invited the House of Commons to make provision for grants in aid of public health services to the amount of £4,000,000, of which sum £3,200,000 was for England and Wales.<sup>3</sup> The proposals were set out in the Finance Bill <sup>4</sup> as follows :—

<sup>1</sup> Report, pp. 48-9.

<sup>2</sup> June 12th, 1913.

<sup>3</sup> The Right Hon. D. Lloyd George, May 5th, 1914.

<sup>4</sup> Bill 251.

Authority to receive Grant.	Basis for Calculation of Grant.
County and district councils and any other authority appointing medical officers of health or other public health officers under any statute.	Half the net expenditure on the salaries and remuneration of medical officers of health and other public health officers.
District councils, including borough councils.	Three shillings and ninepence for every house of less than £20 annual valuation for the purposes of inhabited house duty, and sevenpence per head of the population of the area.
The council of a county.	One shilling and threepence for every house of less than £20 annual valuation for the purposes of inhabited house duty, and twopence per head of the population of the area.
In addition— The local authority within the meaning of section 13 of the Shops Act, 1912.	Half the net expenditure of the authority in carrying out the Shops Acts, 1912 and 1913.

These proposals, which differed in the basis of distribution from, and are greater in amount than, those recommended by the Departmental Committee, aroused considerable anxiety and a storm of criticism. Many authorities naturally feared that the receipt of the grants would only be conditional on increased expenditure from the rates. This might well be so in many cases, especially where rates have been economised at the expense of the public health. Unfortunately the outbreak of the great European war put a period to the chances of the proposed grants in aid materialising and to the controversies which they aroused; the energies of the Government have had perforce to be turned from the protection of the public



health to the preservation of national honour and existence. But the curtailed discussion has been useful; much suspicion and disquiet have been allayed by the announcement that the Government had no intention of taking "any powers to enable its departments to impose upon local authorities the performance of any fresh duties."<sup>1</sup> That is exactly what is needed; not an increase of the duties of sanitary authorities, but an increase of the powers of the Local Government Board for compelling local authorities to perform those duties which have already been placed upon them.

It is impossible to forecast the time when or the form in which these proposals will again come up for discussion, but it is certain that they, with the Report of the Departmental Committee, mark an epoch in public health administration. They indicate a final and complete departure from the parochial view of the public health service, and its instatement as a service of national benefit and importance, a consummation which many keen thinkers in political science have devoted much effort to secure.

<sup>1</sup> The Right Hon. H. Samuel, in reply to a deputation from the Association of Municipal Corporations (*Municipal Journal*, July 10th, 1914, p. 843).

## CHAPTER XXIV.

### CENTRAL CONTROL.

THE purpose of administrative control by the central Government of the activities of local authorities is to secure a high general level of efficiency, by advising and encouraging the more willing authorities, and by exhorting and, in the last resort, compelling neglectful councils to perform their duties and exercise their powers. The source of all such control lies in the various legislative measures constituting the controlling departments and the local authorities, or endowing them with their diverse powers and duties. Its extent and effect consequently vary with different authorities and for different purposes ; and if the three greatest spheres of local government be considered—education, poor relief, and public health—it will be found that central control is slightest and weakest in the case of the last mentioned. The chief reason for this is to be sought in the fact that the foundations of the public health service were being laid at a time when the excessive centralisation of poor law administration and the excessive zeal of Chadwick in trying to force sanitation upon the country by the same method had provoked a strong reaction in favour of local autonomy. A secondary but not unimportant cause is to be found in the general belief that public health effort was for the benefit of the locality rather than for that of the country as a whole, and consequently the expenditure incurred was not considered “onerous” and therefore was not shared by the national Exchequer. This opinion was not authoritatively changed until the Departmental Committee on

Local Taxation issued their final report in 1914,<sup>1</sup> and so the central Government has been without the best weapon for exercising efficient control, the power of withholding grants in aid. The consequence has been that legislation conferred many powers and placed few duties upon local authorities, and that control by the central Government has been neither wide in its application nor very drastic in its effects.

✓ The importance of central control has been exaggerated. Maltbie states that "nearly every system that could be thought of was tried, but not until a logical plan of central control was instituted and made to apply to all of England by the Acts of 1866, 1872, and subsequent years was there any noticeable decrease in the death rate either relatively or absolutely, or great improvement in sanitation."<sup>2</sup>

✓ It is not true that a logical plan of central control was instituted; there neither was nor is such a system. To suggest it is almost an insult to Englishmen, who pride themselves upon the possession of common sense and the absence of logic in public affairs. The decreased death rate is rather the result of the institution of a general system of local authorities endowed with wide powers in place of the "desperate state of confusion in which valuable principles are affirmed, but the necessary organisation and authorities are absent."<sup>3</sup> To local initiative and local effort must by far the greater amount of credit be given for the improved public health.

✓ It is true that the Royal Sanitary Commission found similar complexity and overlapping of the six central departments acting in respect of public health,<sup>4</sup> and that there was a great waste of power in consequence. They reported that they found "a general consent in the minds

<sup>1</sup> Cd. 7315. See last chapter.

<sup>2</sup> "English Local Government of To-day," pp. 114-5.

<sup>3</sup> Second Report of the Royal Sanitary Commission, 1871, Vol. II., p. 183.

<sup>4</sup> These were the Home Secretary, Privy Council, Poor Law Board, Board of Trade, Registrar-General, and the Lunacy Commissioners.

of persons of every class that it is not so much lack of science nor lack of machinery, but rather a proper arrangement of the machinery which is needed for taking due care of the public health."<sup>1</sup> The report was immediately acted upon. In 1871 the Local Government Board was constituted, and remains to-day the chief department of the central Government concerned with the control of the local sanitary authorities, although the preparation of the national vital statistics is still in the hands of the Registrar-General, and important and increasing controlling powers are possessed by the Home Office and the Board of Agriculture, established in 1889.

In 1848 the General Board of Health was established, but, after enduring a series of bitter attacks, was abolished ten years later, when its powers were shared between the Privy Council, a branch of the Home Office called the Local Government Acts Office, and the Poor Law Board. Such a confused and complex jurisdiction was bound to be inefficient, and the Local Government Board Act of 1871 transferred all such powers to a new department called the Local Government Board, stating in the preamble that it was "expedient to concentrate in one department of the Government the supervision of the laws relating to the public health, the relief of the poor, and local government."

Like the Board of Trade, the Local Government Board is only a phantom body, nominally consisting of a President, the Lord President of the Privy Council, all the Secretaries of State, the Lord Privy Seal, and the Chancellor of the Exchequer. The Board never meets, the work being carried on by the President and the Parliamentary Secretary, the former of whom has been a member of the Cabinet since 1880, has always been a commoner, and receives a salary which in 1910 was raised from £2,000 to £5,000 per annum. The President submits the departmental estimates to the Chancellor of the Exchequer and,

<sup>1</sup> Second Report, Vol. II., p. 359.

with the aid of the Parliamentary Secretary—a member of Parliament, but not of the Board—explains and defends the actions and policy of the Board before Parliament.

The staff of the Board is large and includes men who are highly skilled in engineering, medical and preventive science, and finance, the Permanent Secretary exercising control with the aid of five assistants, one being the chief general inspector, and a legal adviser. The control of public health administration, including all those activities having for their object the prevention and treatment of disease, is divided among four different divisions of the department, each with a separate staff having special administrative experiences and policies and superintended by a chief responsible through the Permanent Secretary to the Board.

Of these divisions the one dealing with poor law administration is only indirectly connected with the public health service, through its dealings with poor law infirmaries, district sick asylums and the establishments under the Metropolitan Asylums Board, and cognate matters. The other divisions, which are sub-divided into departments for administrative convenience, have extensive and varied functions, the common ignorance of which justifies them being set out *seriatim* so far as they are concerned with public health.<sup>1</sup>

## PUBLIC HEALTH, LOCAL FINANCE AND LOCAL ACTS DIVISION.

### *Public Health.*

I. INFECTIOUS DISEASE.—(A) *Endemic*.—Correspondence as to outbreaks of infectious disease and measures to be taken to prevent its spread, including investigations by medical inspectors of the causes of such outbreaks ; correspondence as to the application of the Infectious Disease (Notification) Act, 1889, and the Public Health (London) Act, 1891, to diseases other than those specified in these Acts ; general supervision

<sup>1</sup> Memorandum of the Local Government Board (1913), showing divisions of business, names of officers, &c.

of the measures taken for the prevention of infectious and epidemic disease and for limiting its diffusion, and especially with regard to :—

- (a) Hospitals, &c.—Investigations of application for sanction to loans for hospitals, mortuaries, buildings and apparatus for disinfection purposes, and *post-mortem* rooms ; formation of united districts for isolation hospital purposes ; appeals, &c., under the Isolation Hospitals Acts.
- (b) Vaccination.—Correspondence as to the arrangements for public vaccination and the general administration of the Vaccination Acts ; examination and tabulation of returns from vaccination officers ; advising on application from the Registrar-General as to alterations of registration areas, so far as vaccination and statistical arrangements are concerned.
- (c) Diphtheria Anti-toxin.—Correspondence as to the administration of the Diphtheria Anti-toxin Orders, 1910.

(B) *Exotic*.—Prevention of the introduction into England and Wales of exotic diseases, and especially of Asiatic cholera, plague, and yellow fever ; formation of port sanitary authorities and general correspondence as to their administration ; fixing of mooring stations for infected or suspected ships ; correspondence arising out of the Paris International Sanitary Convention, 1903, and as to measures for preventing the spread of exotic disease in the colonies and in foreign countries ; examination and tabulation of reports and statistics relating to infectious disease sent to the Board by the Colonial Office and Foreign Office.

II. APPOINTMENTS OF OFFICERS OF LOCAL AUTHORITIES.—Medical officers of health appointed by (a) county councils, (b) metropolitan borough councils, (c) town councils, (d) urban and rural district councils, and (e) port sanitary authorities ; sanitary inspectors appointed by (a) metropolitan borough councils, (b) town councils, (c) urban and district councils, and (d) port sanitary authorities ; public analysts appointed by local authorities under the Sale of Food and Drugs Acts ; assistant officers authorised by general orders under the Public Health (Regulations as to Food) Act, 1907 ; public vaccinators and vaccination officers appointed by boards of guardians ; health visitors appointed by metropolitan borough councils under the Health Visitors (London) Order, 1909 ; clerks and treasurers to rural district councils ; correspondence as to the appointment of the above-mentioned officers, their qualifications, salaries, conduct, resignation and dismissal ; approval

of their appointments and conduct ; formation of united districts for the employment of medical officers of health under sections 191 and 286 of the Public Health Act, 1875.

III. SANITARY ADMINISTRATION OF DISTRICTS.—Examining and dealing with annual and special reports of medical officers of health ; keeping sanitary records of each district ; correspondence as to the sanitary condition of districts and as to complaints as to insanitary conditions and as to default by sanitary authorities ; correspondence on the reports by medical inspectors as to the sanitary circumstances and administration of districts ; dealing with representation to the Board by county councils under section 19 (2) of the Local Government Act, 1888, that the Public Health Act, 1875, has not been properly put in force ; correspondence as to scavenging ; directing local inquiries respecting the methods of scavenging adopted by the sanitary authorities ; and issuing orders under section 42 of the Public Health Act, 1875.

IV. WATER.—Correspondence on complaints as to defective or insufficient supplies ; examination of Bills for local Acts as to the purity and sufficiency of sources of water supply, and of draft provisional orders of the Board of Trade under the Gas and Water Facilities Act, 1871 ; determining appeals against orders made by sanitary authorities under the Public Health (Water) Act, 1878 ; approval of scales and charges under the Act and the Public Health Act, 1875 ; dealing with applications from urban authorities for powers of rural authorities under the Public Health (Water) Act, 1878 ; preparation of returns as to the water undertakings and the water supplies of each district ; correspondence as to the administration of the Metropolis Water Acts.

V. RIVERS POLLUTION.—Inquiries into applications for the Board's sanction to proceedings against manufacturers under the Rivers Pollution Prevention Acts and certain local Acts relating to the pollution of streams ; inquiries into applications for the Board's declaration of certain tidal waters to be streams for the purposes of the Rivers Pollution Prevention Acts ; correspondence as to the general administration of these Acts.

VI. FOOD.—(1) *Sale of Food and Drugs Acts*.—Examination and tabulation of quarterly returns of public analysts ; correspondence as to the general administration of the Acts.

(2) *Public Health (Regulations as to Food) Act, 1907*.—Correspondence as to the administration of the Unsound Food Regulations, 1908, and the Foreign Meat Regulations, 1908 and 1909 ; recognition of official certificates for the purposes of the latter regulations ; issue of circulars as to these certificates and other matters.

(3) *Foreign and Colonial Food Laws*.—Correspondence and consideration of reports from foreign countries and the colonies; designation of certifying officers for the purpose of certain foreign food laws.

(4) *Other Enactments*.—Correspondence as to the administration of the Dairies, Cowsheds, and Milkshops Orders; correspondence as to provisions in local Acts with regard to milk supply; correspondence as to the inspection of meat under the Public Health Acts; correspondence as to the condition of slaughter-houses; correspondence on the reports of the inspectors of foods.

VII. ALKALI WORKS.—Correspondence relating to the administration of the Alkali, &c., Works Regulation Act, 1906; registration of works under that Act; and sanctions to proceedings against manufacturers for contravention of the Act.

VIII. CANAL BOATS.—Examination of reports furnished by local authorities under the Canal Boats Acts and by the Board's inspector of canal boats; correspondence as to the administration of the Acts.

IX. ADOPTIVE ACTS.—Public Health Acts Amendment Act, 1890; Infectious Disease Prevention Act, 1890; Public Libraries Acts; Museum and Gymnasiums Act, 1891; Private Street Works Act, 1892 (correspondence and registration of adoptions); Notification of Births Act, 1907 (correspondence as to applications for the Board's consent to the adoption of the Act, and generally as to administrative measures against infant mortality); Public Health Acts Amendment Act, 1907 (advising on applications for orders putting in force certain parts of the Act).

#### *Local Finance and Local Acts.*

Examinations under the Public Works Loans Acts as to expenditure by local authorities in England and Wales of all loans advanced to them by the Public Works Loan Commissioners, examination of annual returns made under local Acts and provisional orders in regard to the repayment of loans or redemption of stock or annuities by sinking funds or loans funds or otherwise, and preparing forms for such returns; examination of annual returns as to sinking funds under the Local Loans Act, 1875; all correspondence and investigations in connection with the issue of stock by county councils under the Local Government Act, 1888, by urban authorities under the Public Health Acts Amendment Act, 1890, and by the Metropolitan Water Board under the Metropolis Water Act, 1902, and the Board's stock regulations under those Acts; and the examination of annual returns as to redemption funds for



redemption of such stock ; preparation for Index Department of memoranda on questions of general interest arising in connection with the work of the department as to repayment of debt ; approval under Local Act provisions of schemes of equating of periods for repayment of loans ; correspondence with respect to superannuation funds under local Acts ; adjustments between county councils and councils of boroughs under applied provisions of the Local Government Act, 1888, in pursuance of local Acts and provisional orders, and appointments of arbitrators in connexion with such adjustments ; applications for provisional orders under the Public Health Act, 1875, for the repeal, alteration, or amendment of local Acts ; preparation of index of decisions, &c., in connection with the same orders and pier and harbour orders submitted for the Board's consideration ; examination and consideration in the several stages of Bills for local Acts ; reports to Parliament on such Bills ; application under the Borough Funds Acts, 1872 and 1903, and the County Councils (Bills in Parliament) Act, 1903, for approval of promotion of or opposition to Bills in Parliament ; examination of provisional orders.

#### *Sanatorium.*

Investigation of schemes of local authorities for the institutional treatment of tuberculosis, including the authorisation of county councils to provide sanatoria and other institutions for the treatment of the disease and the formation of joint committees and joint boards under section 64 (2) and (3) of the National Insurance Act, 1911 ; correspondence with the National Health Insurance Commissioners and the Board of Education in regard to schemes and conferences with local authorities and their officers ; distribution in England, with the consent of the Treasury, of the capital grant made available by the Finance Act, 1911, for the provision of, or making grants in aid to, sanatoria and other institutions for the treatment of tuberculosis ; investigations of applications for sanction to loans for the provision of dispensaries, sanatoria, and hospitals for the treatment of tuberculosis, and of applications for approval of such institutions under section 16 (1) (a) of the National Insurance Act ; distribution in England of the annual Government grant towards the institutional treatment of non-insured persons (including the dependants of insured persons) suffering from tuberculosis ; approving under section 16 (1) (b) of the National Insurance Act the manner of treatment (otherwise than in sanatoria or other institutions) of insured persons suffering from tuberculosis ; correspondence as to the use of isolation hospitals for the treatment of persons

suffering from tuberculosis and the application of the provisions of the Isolation Hospitals Acts, 1893 and 1901, to tuberculosis; correspondence as to the administration of the Public Health (Tuberculosis) Regulations, 1912, and as to other measures for the prevention of the disease.

#### AUDIT AND STATISTICS, &c., DIVISION.

*Audit Appeals and Sanctions.*—Correspondence as to, and decisions of, appeals against allowances, disallowances, surcharges, balances certified, &c., by district auditors; correspondence respecting, and decisions on, applications for sanction under the Local Authorities (Expenses) Act, 1887, to expenditure liable to be disallowed by the district auditors; correspondence respecting the payment and recovery of sums disallowed and surcharged, and applications for consent to payment by local authorities of costs incurred by district auditors in local proceedings or directions as to the mode of charging such costs.

*Audit.*—Consideration of reports of district auditors upon the accounts of local authorities and their officers; correspondence arising upon such reports, or otherwise relating to the accounts and the audit of such accounts; preparation of instructions to local authorities as to accounts generally, and of the forms of account and financial statements to be prescribed, and consideration of draft orders prescribing such forms; preparation and revision of special forms of account under local Acts or provisional orders; consideration of applications for assent to departures from the regulations with regard to accounts, and preparation and approval of forms in such cases; general supervision of auditor's work; preparation of statistics in regard to the extent and progress of the work in the various audit departments, and the preparation and supply of forms of reports, &c., required by auditors.

*Statistics and Local Taxation.*—Preparation of (a) annual local taxation returns; (b) the "advance" statement prepared as to the expenditure and receipts of the principal classes of local authorities; (c) the annual statement relating to the local taxation account; and (d) other returns from time to time ordered by Parliament. Examination and summarising of the following accounts and returns, viz.:—annual accounts rendered by sanitary authorities in London under the London (Equalisation of Rates) Act, 1894; annual returns of the number of persons vaccinated and revaccinated at the expense of the poor rates; the returns annually made by rating authorities under the London (Equalisation of Rates) Act, 1894, as to the number of houses in the several parishes

in London. The preparation and distribution of summaries of weekly returns from medical officers of health, showing the number of cases of infectious disease notified to them. Preparation of the forms required by statute or otherwise to be prescribed for the purposes of the above-mentioned returns and accounts. Preparation of statistical information required in connection with proposed legislation for the Board's annual report, and for other purposes. Distribution of sums out of the local taxation account to local authorities and correspondence relating thereto. Dealing with questions relating to the decennial census.

#### SANITARY ADMINISTRATION AND LOCAL AREAS DIVISION.

*Sanitary Administration.*—Applications for sanction to loans by local authorities (viz., county councils, municipal corporations, metropolitan borough councils, urban and rural district councils, parish councils, joint boards and burial boards) under the following Acts :—The Public Health Acts ; the Municipal Corporations Act, 1882 ; the Museums and Gymnasiums Act, 1891 ; the Baths and Washhouses Acts ; the Public Health (London) Act, 1891 ; the Burial Acts ; the Local Government (Joint Committees) Act, 1897 ; the Small Dwellings Acquisition Act, 1899 ; and under local Acts and Provisional Orders Confirmation Acts. Recommending the Public Works Loan Commissioners to advance loans to local authorities except in the case of loans for housing and town-planning purposes. Sanctioning the appropriation of unexpended loan balances under the Public Works Loans Act, 1881. Determination of period for repayment of loans raised for the adjustment of liabilities under the Local Government Acts, 1888 and 1894, and sanctioning the appropriation of moneys received on this account. Examination when application is made by local authorities for approval of any financial transactions of the provision made by them for the repayment of existing debt. Applications for provisional orders for the alteration of the boundaries of counties and municipal boroughs, for various other purposes of the Local Government Act, 1888, including the enlargement of the borrowing powers of county councils, and the constitution of county boroughs ; for the compulsory purchase of lands under the Public Health Act, and for the purposes of the Gas and Waterworks Facilities Acts. Allowances of costs of provisional orders, confirmation of orders of county councils for the formation or alteration of urban or rural districts, and adjudication upon petitions for the disallowance of such orders. Constitution of united districts

for certain sanitary purposes. Approval or otherwise of resolutions of rural district councils forming special drainage districts. Investigation of proposals for the alteration of the number of county councillors and of electoral divisions under the Local Government Act, 1888. Consideration of reports made to the Privy Council Office on application for the grant of charters of incorporation to towns. Confirmation or disallowance (upon appeal) of orders of county councils as to the compulsory purchase of land under the Local Government Act, 1894, and petitions against the refusal of county councils to make such orders. Investment of urban district councils and metropolitan authorities with certain of the powers of parish councils. Approving adoption of various adoptive Acts by parish meetings. Consent to sale, leases, exchanges, appropriations, and other disposal of property by local authorities under the Local Government Acts, the Baths and Washhouses Acts, the Education Acts, the Public Health Acts Amendment Act, 1907, and other Acts. Giving directions and advising as to the application of sale proceeds. Determination of differences under section 11 of the Local Government Act, 1888, as amended by the Local Government (Determination of Differences) Act, 1896, as to payments to be made by county councils in respect of main roads. Appointment of arbitrators and umpires under the Public Health Act, 1875, and the Local Government Act, 1888. Complaints under section 299 of the Public Health Act, 1875, of the default of sanitary authorities in the performance of their duty. Investment of rural district councils with urban powers under the Public Health and other Acts. Declaring expenses of rural district councils to be chargeable as special expenses. Consent to exercise by rural district councils of powers of urban district councils in relation to markets. Determination of appeals against decisions of sanitary authorities as to expenses of private improvements. Recovery from local authorities of the costs of local inquiries held by the Board's inspectors. Applications for sanction to the communication of the sewers of adjoining districts, to the supply of water by one local authority to another, to the purchase of land for new streets, and to the purchase of waterworks and gasworks. Allowance or disallowance (when objection is made) of intended works of sewerage or water supply, or the establishment of cemeteries, outside the districts of sanitary authorities, and the construction of reservoirs of a certain capacity. Approval of plans and sites of crematoria. The administration of the Burial Acts with reference to the following matters (in addition to the sanctioning of loans) :—The closing of burial grounds and the

prohibition of the opening of new ones ; the approval of new burial grounds and of additions to existing grounds ; the adoption of the Burial Acts and the constitution, powers, and areas of burial authorities ; the inspection of burial grounds ; the purchase, sale, and letting of lands ; the sanitary regulation of vaults and places of burial, and the grant of licences for interment in closed burial grounds. Obtaining annually from local authorities returns showing members and officers and other particulars. Advising local authorities upon various matters connected with local government and sanitary administration. Keeping a record of the orders of county councils of various kinds which require no confirmation by the Board, and of the changes effected in the boundaries of counties, urban and rural districts, and parishes.

*Housing and Town Planning.*—The administration of the Housing of the Working Classes Acts, 1890 to 1909, including applications for sanctions to loans by local authorities under those Acts ; recommendations to the Public Loan Commissioners to advance such loans to local authorities ; consents to sale, lease, exchange, or appropriation of property by local authorities under the Acts and approval on application of proceeds of sale. Confirmation of schemes under Parts I. and II. of the Housing of the Working Classes Act, 1890. Approval of the method of laying out cleared areas and of the plans for new dwellings, and other approvals or consents required in the execution of such schemes. Confirmation of orders of local authorities for compulsory purchase of land for purposes of Part III. of the Act of 1890. Appointment of arbitrators and certifying the charges of the arbitrators appointed under the Act. Inquiry as regards railway and other companies and local authorities, who are under obligations in respect of the rehousing of persons of the working classes displaced under the powers of local Acts or provisional orders, as to the proper discharge of their obligations, and approval of schemes submitted by them or decision that such schemes are unnecessary. Determination of appeals in regard to closing orders, demolition orders, orders to execute works in respect of dwelling-houses, and other appeals under Part I. of the Housing, Town Planning, &c., Act, 1909. Investigation of complaints by ratepayers with respect to insanitary areas, and of complaints by individuals as to the insanitary condition of dwelling-houses ; investigation of and action in regard to complaints as to default of local authorities in exercising their powers under Parts II. and III. of the Housing of the Working Classes Act, 1890. Approval of leasing of corporate lands as sites for working-men's dwellings under section 3 of the Municipal

Corporations Act, 1882. The granting of authority to prepare or adopt town-planning schemes, and the approval of such schemes, under Part II. of the Housing, Town Planning, &c., Act, 1909, and the general administration of that Act in regard to town planning.

#### LEGAL AND ORDER DIVISION.

*Legal.*—Questions of law relating to the administration by local authorities of the local government and poor laws. Application for orders under section 33 of the Local Government Act, 1894, investing town councils and other authorities with some of the powers of parish councils. Correspondence with respect to the election of local authorities and the proceedings under the several election orders issued by the Board. Revision and confirmation of bye-laws, rules, and regulations made by local authorities under the Public Health Acts and the Public Health (London) Act, 1891; the Local Government Act, 1888; the Locomotives Act, 1898; the Highways and Locomotives Amendment Act, 1878; the Municipal Corporations Act, 1882; the Local Government Act, 1894; the Housing, Town Planning, &c., Act, 1909; and various other general statutes and under local Acts and provisional orders. Confirmation of orders as to offensive trades under the Public Health Acts Amendment Act, 1907. Approval of market tolls. Revision of regulations made by local authorities under the Dairies, Cowsheds, and Milkshops Orders of 1885. Sanctioning of special rules made by the owners of works under the Alkali, &c., Works Regulation Act, 1881. Approval of bye-laws made by water companies. Prescribing regulations and approving burial fees under the Burial Acts; approving fees for cremation under the Cremation Act, 1902. Preparation of model bye-laws and regulations. Examination of all public Bills introduced into Parliament, and preparation of memoranda explaining and criticising those relating to matters connected with the Board's jurisdiction; examination of daily parliamentary notices, particularly in connection with proposed amendments of public Bills, and preparation of memoranda on the latter; and examination of provisions in Bills for local Acts affecting matters dealt with by the legal department. Preparation of circular letters to local authorities and their officers, explaining the effect of new legislation. Keeping of register of suggestions made by local authorities and other legislation, and of questions reserved by the Board for consideration when legislation may be proposed, preparation of cases for the opinion of the law officers of the Crown; prepara-

tion for the Index Department of memoranda of a portion of the questions decided in the Department for precedents ; and preparation for the use of the Board's officers of selections from the correspondence of the Board and from judicial decisions in cases relating to the matters connected with the jurisdiction of the Board, and keeping registers of such cases.

*Order and Parish Property.*—The preparation and issue of provisional orders, orders, and certificates under seal ; correspondence relating to the Public Health Acts Amendment Act, 1907.

*Office Management and Accounts.*—Correspondence with regard to proposed congresses and conferences in the United Kingdom and abroad on matters of departmental interest. Inquiries and applications from home, colonial, and foreign Government departments and public officials concerning matters under the Board's supervision, the Board's reports, and other publications. The collection and supply to the International Health Bureau quarterly of reports, publications, &c., relating to public health issued by the Board, Registrar-General, or other public departments. Examining and summarising the weekly reports of the medical, engineering, and alkali inspectors. Presentation of returns to Parliament. Compilation of the Board's annual reports and preparation of index thereto. Examination and distribution of Press cuttings.

*Accounts Branch.*—Examination in detail and payment of various accounts. Payments from the local taxation account to the treasurers of various local authorities ; payments in England from the sum made available by the Finance Act, 1911, for the provision of, or making grants in aid to, sanatoria and other institutions for the treatment of tuberculosis, and from the annual parliamentary grant towards the cost of institutional treatment of non-insured persons (including the dependants of insured persons) suffering from tuberculosis. Preparation of annual estimate and appropriation account. Recovery from local authorities of costs of official inquiries.

To these must be added the Engineering, Medical Officer's, Government Lymph and Architect's Departments, each with specialised staffs of professional experts.

In the offices of the Local Government Board public Bills dealing with local government are prepared, and all private Bills promoted by local authorities or private associations have to run the gauntlet of the criticism, and frequently the opposition, of its expert advisers. In fact, unless the demands of the Board are conceded, or

it is in some other respect placated, the promotion of such legislation is seldom successful.

The administration of the Factory and Workshop Acts and kindred legislation by local authorities is supervised and controlled from the Home Office, at the head of which is the Secretary of State, a lineal descendant of one of the oldest officers of the Crown.<sup>1</sup> On the other hand, one of the newest of the departments of the central Government, the Board of Agriculture, is endowed with certain powers of control and supervision as respects the local administration of the Contagious Diseases of Animals Acts, parts of the Food and Drugs Acts, and the *quasi*-public health legislation affecting fertilisers and feeding-stuffs and destructive insects and pests. Like the other Boards, this one is "a legal phantom providing imaginary colleagues for a single responsible minister," the President, the work being distributed amongst various branches each with a responsible head.

✓ In theory and by law there are few powers or duties conferred upon local authorities in the exercise of which they are not subject to some measure of supervision or control. The practice varies from time to time, and as regards different matters, very divergent opinions being expressed as to the wisdom, efficacy, and advantage of such interference. On the one hand, it is denounced as the mischievous meddling of bureaucratic busybodies, whilst on the other, demands are made for a more stringent exercise by the central authorities of those powers they possess to compel reluctant authorities to exercise the powers they are by law endowed with. It is not safe in this case to assume that the middle course is the right one. The issue is to a certain extent the old one between the centralising and decentralising tendencies, and local government becomes a myth if the central authority is empowered to step in and forcibly compel local authorities to do everything which, having the power, they neglect

<sup>1</sup> See R. H. Gretton, "The King's Government."



to do. It remains true that the population of local areas, like that of countries, gets that kind of government which it deserves ; a neglectful local authority can be replaced by one more energetic when the local electors are desirous of so doing. Striking examples of the paralysing effects on local administration of indifferent or even interested electorates were brought before the Royal Sanitary Commission in 1871,<sup>1</sup> and more recently the position has been summed up in the report of the medical officer to the Local Government Board<sup>2</sup> in the statement that " the responsibility for failure to secure sanitary conditions of life in a district must be shared between the sanitary authority, their officers and the inhabitants of the district. In a restricted sense it may be said that the inhabitants of a district secure such sanitary conditions as they deserve, the members of the local councils having been elected by them." Nevertheless, the complaints of those who wish for a more progressive exertion of central control in the direction of a general levelling up of local administrative effort are not without justification, but, as will be seen, the fault probably rests less with the central departments than with the methods at their disposal for the purpose.

The various methods by which the central Government is enabled to aid, supervise, and control local authorities are susceptible to classification. But they are not all as equally applicable in the case of public health administration as they are to other branches of local government ; and the defect is most important. In the case of police, poor law, and education, enterprise is stimulated and efficiency is rewarded by a system of grants in aid. Until recently public health administration was entirely without this very important factor for promoting a progressive development of the service, unless the payment, out of the

<sup>1</sup> Second Report, 1871, Minutes of Evidence.

<sup>2</sup> Thirty-ninth Annual Report of the Local Government Board, Medical Officer's Report, p. xv.

Exchequer contribution accounts of the county councils, of a moiety of the salaries of district medical officers of health and inspectors of nuisances whose appointments have been approved by the Local Government Board be considered as such a grant. This amounts to under £200,000 per annum. A new departure was made by the National Insurance and Finance Acts of 1911, by which local authorities are receiving grants in aid to enable them to deal effectively with tuberculosis. It was not unreasonable that, having the beneficial effects of grants in aid in the case of such services as police and education before them, enthusiasts for sanitary progress viewed this step as a move in the right direction, and urged with greater force the need for similar treatment of the housing and other public health problems.<sup>1</sup> And, as we have already seen,<sup>2</sup> they received welcome support in the report of the Departmental Committee on Local Taxation and in the proposals of the Chancellor of the Exchequer in his Budget speech.<sup>3</sup>

✓ Apart from this method, at present undeveloped, the methods of central control fall under one or the other of the following heads <sup>4</sup> :—

- (1) *Sub-legislative*.—Discretionary grants of powers, provisional orders, &c. The issue of orders, rules, and regulations dealing with affairs administered locally.
- (2) *Approval*.—The sanction of acts of local authorities in order to render them lawful.
- (3) *Appellate*.—The power of decision in cases where local authorities are one or both parties in a matter of dispute.

<sup>1</sup> See S. Webb, "Grants in Aid." Compare Thirty-ninth Report of the Local Government Board, Medical Officer's Report, p. xv.

<sup>2</sup> Chapter XXII.

<sup>3</sup> May 4th, 1914.

<sup>4</sup> Compare Maltbie, "English Local Government of To-day," p. 260, and Ashley, "Local Government," pp. 49 *et seq.*

- (4) *Inspection and Direction*.—Including the audit of accounts.
- (5) *Executive*.—The administration of local affairs or the execution of local Acts where the local authority is negligent.
- (6) *Advisory*.—The preparation, publication, and distribution of reports and information upon matters of importance to sanitary authorities.

There is no doubt that the work of the Local Government Board in these directions is steadily increasing, particularly that generalised under the heading "Sub-legislative." One of the tendencies of modern legislation is to define generally the powers and duties of a local authority in an Act of Parliament and to delegate to the Local Government Board the power of elaborating the details of administration in orders and regulations.<sup>1</sup> On the other hand, by the device of provisional orders, the Board sanctions the details of local legislation and is responsible for piloting the confirmation Acts through Parliament. By these means some of the legislative congestion of Parliament is relieved and some of the heavy expense of promoting private Bills is saved to local authorities, but it is alleged, with some show of reason, that the result has been to overburden the department with work and to cause delay in dealing with many matters of importance.<sup>2</sup>

It is these conditions that have given added strength to the demand for some measure of decentralisation, especially in the direction of transferring some of the Board's power of control over the county sanitary districts to the county councils. For this purpose ample powers are given by the Local Government Act, 1888,<sup>3</sup> which authorises the Local Government Board to make a pro-

<sup>1</sup> Compare Ilbert, "Legislative Methods and Forms," p. 37.

<sup>2</sup> Compare Redlich and Hirst, "English Local Government," Vol. II., p. 255.

<sup>3</sup> Section 10.

visional order transferring to county councils any powers, duties, and liabilities of the Privy Council, a Secretary of State, the Board of Trade, Local Government Board or Education Department, or any other Government department, as are conferred by or in pursuance of any statute, and appear to relate to matters of an administrative character arising within the county. The powers thus transferable include those of the Local Government Board under the Public Health, Baths and Washhouses, Artizans' Dwellings, Highway and Rivers Pollution Acts. The year after the Act was passed Mr. Ritchie, then President of the Local Government Board, brought forward a Bill to confirm a provisional order made to effect some transfers originally intended to be effected by the Act itself, but the opposition from the councils of the county districts, on the ground that the county councils would not be so impartial as a central department, and that the Board possessed more expert knowledge and could give more valuable advice, was too strong and the Bill was dropped.<sup>1</sup> A more recent Act<sup>2</sup> permits such powers to be transferred to any particular county council or county borough council if they make application, but notice of such intention must be given to all local authorities likely to be affected, and the result has been that matters have remained as they were.

Less is heard of another way of relieving the strain upon the capacity of the controlling authority, viz., by an increase in the size and a reduction in the number of local authorities, or by a transfer of some of their powers, notably those of housing and sanitary inspection, to the county councils. On the whole it is probably true that the larger the authority the better the Public Health Acts are administered and the less supervision is required, whilst it is certain that such authorities, being better

<sup>1</sup> See Simon, "English Sanitary Institutions," pp. 422-3, and Ashley, "Local Government," pp. 55-6.

<sup>2</sup> Local Government (Transfer of Powers) Act, 1903.

able to bear the burdens,<sup>1</sup> are more amenable to the pressure of the central authority and are less likely to be dominated by sinister interests than the smaller authorities. In addition, a reduction of the number or of the functions of the lesser authorities would entail a large decrease in correspondence and other business of the Local Government Board, leaving it free to devote more attention to greater matters. Against these suggestions local sentiment is, of course, arrayed; people who take little or no interest in local government are aroused by the proposal that their council should be abolished or stripped of some of its powers. And it is urged that a reduction of the powers, duties, and responsibilities of a local authority results in a failure to attract the best men, and that it is essential that local autonomy should prevail, inasmuch as each locality has special circumstances which are more efficiently dealt with by men elected and appointed for the immediate district than by those acting over a large area of which it forms only a minor part.

These questions are not special to public health administration; they form part of the greater one which is concerned with the discovery of the best area and authority for the administration of local affairs. But for the present purpose it suffices to point out that recent legislation shows a tendency to increase the sanitary powers of the larger authorities, leaving the smaller with subordinate powers, and that, whatever may be said of other branches of local government, there is no reason to think that the powers of housing and sanitary inspection could not be better administered by a larger than a smaller local authority. On the contrary, it is easy to find reasons in favour of such a course. The housing problem in country districts is seldom confined to the area of one rural district

<sup>1</sup> Compare Webb, "Grants in Aid," p. 24, and speech by Miss Cochrane at the National Conference for the Prevention of Destitution, 1911, p. 229 of report.

council, neither need its solution by the provision of houses be similarly restricted ; and, in these days of mobile labour and quick transit which enables people working in one district to live in another, the problem appearing in one area often has its origin elsewhere. It is only a large authority elected for a large area that can adequately face these facts. As regards sanitary inspection, the disadvantages of small and poor districts are equally obvious ; such districts are not only unable to obtain and keep the most efficient officials, but their small councils are frequently dominated by local people whose interest it is that sanitary inspection should not be too thorough and effective, and who use their powers to prevent it being so. Upon the officials of such authorities there is often a constant and not always unnoticed pressure which could not be exerted without public protest by the members of a larger authority.<sup>1</sup>

<sup>1</sup> See *Sanitary Journal* for June, 1914 (p. 3), for report of case where it was moved to reduce the salary of the sanitary inspector from £100 to £20, the mover, " in an impassioned speech," making numerous allegations ; the motion was not seconded. See also p. 24 for questions in the House of Commons in reference to an inspector who had been dismissed. Compare Thirty-ninth Report of the Local Government Board, Medical Officer's Report, p. xv.

## CHAPTER XXV.

### METHODS OF CENTRAL CONTROL.

IN the last chapter the powers of the central Government, exercised chiefly by the Local Government Board, to supervise and control the activities of local authorities were classified under six heads, viz. : (1) Sub-legislative ; (2) Approval ; (3) Appellate ; (4) Inspection and Direction ; (5) Executive ; and (6) Advisory. It is now necessary to enter into fuller details of each of these methods as applied to the administration of the Public Health and kindred Acts.

*Sub-legislation.* — Almost every Act of Parliament affecting the powers and duties of local authorities contains some clauses enabling one of the departments of the central Government to extend and amplify its provisions. This is done by means of provisional orders, orders and regulations, the first of which requires the sanction of Parliament to the confirmation Act, and the last two are liable, like all other matters of departmental activity, to be discussed by Parliament, even in those cases where they are not definitely required to be laid before Parliament.<sup>1</sup> All such orders and regulations must be sent to the King's printers to be numbered, printed, and sold according to regulations issued by the Treasury<sup>2</sup> ; and must be published in the *London Gazette*, such publication being conclusive evidence of their existence.<sup>3</sup> All such orders are binding and conclusive,<sup>4</sup>

<sup>1</sup> Ilbert, "Legislative Methods and Forms," p. 41 ; Anson, "Law and Custom of the Constitution," Vol. II., Part II., p. 48.

<sup>2</sup> Rules Publication Act, 1893.

<sup>3</sup> See Public Health Act, 1875, ss. 135 and 295 ; Canal Boats Act, 1877, s. 9 ; and Documentary Evidence Acts, 1868 and 1882.

<sup>4</sup> Public Health Act, 1875, s. 295.

and the courts have refused to grant a writ of *certiorari* to remove a provisional order for the purpose of being quashed, inasmuch as to do so would be to usurp functions which do not belong to courts by stepping in between the provisional order and the exercise of the parliamentary will.<sup>1</sup>

By provisional order the Local Government Board may constitute port sanitary authorities and endow them with all necessary powers and duties and may dissolve, divide, or unite other districts, part of the latter power, together with others, being concurrently held by county councils, whose order is in the more important cases subject to the consent of the Local Government Board.<sup>2</sup> By this means also the Board may, on the application of the local authority, wholly or partially repeal any local Act except such as deal with the conservancy of sewers,<sup>3</sup> and may authorise the compulsory purchase of lands for various purposes.<sup>4</sup>

During the period from January 1st, 1911, to March 31st, 1912, the Board altered by provisional orders the areas of seven county boroughs, two non-county boroughs, and one urban district, abolished seven non-county boroughs and urban districts, and confirmed orders made by county councils constituting four urban districts, altering or extending six urban districts, and eighteen orders uniting, dividing or abolishing other areas.<sup>5</sup> In only three cases were the orders opposed in Parliament, but without success in either. During the same period forty-one provisional orders were made under the Public Health Act, 1875, one being withdrawn from the confirmation Act at the request of the local authority and two opposed, one successfully. Of these, thirty-two altered or repealed local Acts, seven authorised the compulsory purchase of

<sup>1</sup> *Reg. v. Hastings Local Board*, 6 B. & S. 401.

<sup>2</sup> Local Government Act, 1888, ss. 54 *et seq.*

<sup>3</sup> Public Health Act, 1875, s. 303.

<sup>4</sup> Lands required for purposes of the Baths and Washhouses, Burial, Public Libraries, and Open Spaces Acts are exceptions.

<sup>5</sup> Forty-second Report of the Local Government Board, Part II., pp. 236 *et seq.*



land, one constituted a united districts joint hospital board, and one dissolved a special drainage district.<sup>1</sup>

The issue of orders under the various Acts is an important part of the work of the Local Government Board. During the period from January 1st, 1911, to March 31st, 1912, no fewer than 861 of these instruments were issued, of which about 700 appertained to matters of sanitary administration,<sup>2</sup> the numbers for the year ending March 31st, 1913, being 633 and about 550.<sup>3</sup> The range of this power is very extensive ; by it rural authorities may be endowed with various urban powers, local authorities may be required to undertake the collection and removal of house refuse, the construction of sewerage and water supply works outside a district may be allowed, improvement schemes under the Housing of the Working Classes Acts sanctioned, the adoption of the whole or parts of the Public Health Acts Amendment Act, 1907, permitted, and the Notification of Births Act, 1907, declared to be in force in any district, even if the district council has not adopted it.<sup>4</sup>

Under the Factory and Workshops Act, 1901, the Home Secretary has made orders extending the provisions of the Act to specified classes of homework,<sup>5</sup> and may in a similar way modify the prescribed amount of air space in cases where artificial light other than electricity is used, where a workshop or workplace is occupied by night as a sleeping apartment, and as regards any particular manufacturing process,<sup>6</sup> make exceptions to the application of requirements as to limewashing of walls,<sup>7</sup> and prescribe the amount of sanitary accommodation for

<sup>1</sup> Forty-second Report of the Local Government Board, Part II., pp. 199 *et seq.*

<sup>2</sup> Forty-first Report of the Local Government Board, Part II., pp. cxix. and 197.

<sup>3</sup> Forty-second Report, Part III., pp. cxiii. and 218.

<sup>4</sup> This Act has been extended to all districts by the Notification of Births (Extension) Act, 1915.

<sup>5</sup> Sections 107, 108, and 110.

<sup>6</sup> Section 3.

<sup>7</sup> Section 1.

factories and workshops.<sup>1</sup> Such orders must be laid before both Houses of Parliament, and may be annulled by resolution of either of them within forty days.<sup>2</sup>

The powers previously exercised by the Privy Council of issuing orders as regards diseases of animals were transferred to the Board of Agriculture,<sup>3</sup> who have issued orders dealing specially and generally with all kinds of matters concerning the importation, transport, and keeping of animals, very important examples being the Tuberculosis Orders, 1913 and 1914. The Board also exercises similar powers under the Destructive Insects and Pests Acts, 1877 and 1907, by virtue of which the American Gooseberry Mildew (Fruit) Order was issued in 1912. The power to make regulations extends to a similar variety of subjects, many of which have been already enumerated or explained.<sup>4</sup>

By these methods almost as much as by direct parliamentary legislation do the duties and powers of local authorities and their officers increase, and the laws they administer become more complex. In fact, it becomes increasingly difficult to find any matter dealt with by Act of Parliament that is not in some way or another affected by orders or regulations of one of the departments of the central Government, and this growing and complicated mass of law is one of the strongest arguments in favour of a consolidation and simplification of its provisions.

*Approval.*—For many acts of local authorities the consent or approval of one of the central departments is necessary. In many cases, as indicated in the preceding section, this consent is given by the issue of a provisional or an ordinary order; in other cases simple sanction is all that is necessary. The adoption of certain Acts and the

<sup>1</sup> Section 9.

<sup>2</sup> Sections 3, 107, and 126.

<sup>3</sup> Board of Agriculture Act, 1889, and Diseases of Animals Act, 1894.

<sup>4</sup> See list of recent orders and regulations at end of Chapter III.

enactment of bye-laws and some regulations require the consent of the Local Government Board,<sup>1</sup> which is also necessary for the purchase, by agreement, of waterworks, the right to take or convey water, and property needed for laying out new streets, as well as for contracting for the cleansing of streets. Consent is also required before a local authority can take proceedings under the Rivers Pollution Act, 1876, and to orders made by county councils under the Isolation Hospitals and other Acts, a similar condition limiting the transfer of hospitals from a district authority to the county council. For the appointment of all medical officers of health and inspectors of nuisances, a moiety of whose salary is expected from the Exchequer contribution account of the county council, the approval of the Local Government Board is required, and in this, as in other cases, such approval, as the annual reports of the Board disclose, is no mere formality, although in the case of these appointments its value has been greatly overestimated. No one who is well acquainted with public health administration will agree with the opinion that "the Legislature, by prescribing for these local officers certain conditions of dependence upon the central authority, has given the latter a potent leverage on the work of local government. . . . This peculiar device powerfully assists the Local Government Board, and serves as a bulwark to the control which it exerts on behalf of the State over the local administration of sanitary law."<sup>2</sup> Sanitary officials have long been aware, and the Government has just begun to realise, that these ideas are erroneous; there is little security either for the official in his office or for the efficient administration of the law.<sup>3</sup>

<sup>1</sup> See Chapter V.

<sup>2</sup> Redlich and Hirst, "English Local Government," Vol. II., pp. 292-3; see also Vol. II., Part IV., Chapter IV., for general powers of Local Government Board.

<sup>3</sup> See replies of Ministers to deputations from various officials and health associations on questions of security of tenure and superannuation, *Municipal Journal*, June 12th and 26th, 1914.

The powers of the Local Government Board in this direction are strongly reinforced by the necessity for local authorities to obtain their sanction to the borrowing of money or the issue of stock for various purposes requiring large capital outlay. This sanction was refused to the whole or part of the proposed loan in 457 instances involving £394,959 during the year ending March 31st, 1913.<sup>1</sup>

*The appellate jurisdiction* of the Local Government Board is very considerable and appears to be increasing. As a rule the right of appeal lies with the individual against the decision of the local authority, and the decision of the Board is final and conclusive ; but there are a few exceptions. Any person aggrieved by a decision of a local authority in cases where the authority is empowered to recover expenses incurred by them or to declare such expenses to be "private improvement expenses," may appeal to the Board,<sup>2</sup> and a similar right exists against the requirement by a rural district council that the owner provide a water supply for his premises.<sup>3</sup> Any individual aggrieved by the grant or refusal of a certificate that the means adopted to render harmless any polluting matter flowing into a stream are the best or only practicable and available means under the circumstances has the right of appeal to the Local Government Board,<sup>4</sup> who may also be asked to determine the reasonable cost at which water may be required to be furnished to houses without a supply,<sup>5</sup> or to fix a general scale of charges for a water supply.<sup>6</sup> In the last two cases the initiative rests with the local authority.

The Housing and Town Planning Act, 1909, gave local authorities much stronger powers than they previously

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xc.

<sup>2</sup> Public Health Act, 1875, s. 268.

<sup>3</sup> Public Health (Water) Act, 1878, ss. 3 and 4.

<sup>4</sup> Rivers Pollution Act, 1876, s. 12.

<sup>5</sup> Public Health Act, 1875, s. 62.

<sup>6</sup> Public Health (Water) Act, 1878, s. 8.

possessed, but it also extends the appellate jurisdiction of the Local Government Board, to which a landlord can appeal against a notice from the local authority or a demand for expenses incurred by them in carrying out the requirements of the notice.<sup>1</sup> A similar appeal lies against closing and demolition orders made by the local authority, or their refusal to determine a closing order.<sup>2</sup> In general, the decisions of the Board are final and conclusive, but in the last-mentioned case it may, and if directed by the High Court must, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal, which must not be dismissed by the Board without previously holding a public local inquiry.<sup>3</sup> Appeals against the action of local authorities under this Act have been very numerous, but, as may be gathered from the following statement (p. 302) of the Board's work in this respect during the year ending March 31st, 1913, they have not been very successful.<sup>4</sup>

The Public Health Act gives general powers to the Local Government Board to settle any differences arising out of the transfer of powers or property to any local authority,<sup>5</sup> and local authorities aggrieved may appeal against the decision of the county council to include its area within a proposed hospital district or against the mode of constituting a joint committee for such a district, the decision of the Board being final.<sup>6</sup> Compulsion is introduced in the case of disputes and differences between clerks of rural district councils or medical officers of health of county districts and the county medical officer of health with reference to their duties under the Housing and Town Planning Act, which requires that

<sup>1</sup> Section 15.

<sup>2</sup> Sections 17 and 18.

<sup>3</sup> Sections 39 and 57.

<sup>4</sup> Forty-second Report of the Local Government Board, Part II., p. xxxii.

<sup>5</sup> Section 304.

<sup>6</sup> Isolation Hospitals Act, 1893, ss. 8 and 10.

such differences shall be referred to the Local Government Board, whose decision is final and binding.<sup>1</sup> Differences arising in relation to matters under the regulations dealing with unsound food and milk and cream may be referred to the Board, but only on the application of all the affected parties; the Board, however, may choose to determine the difference as arbitrators, in which case the provisions of the Regulation of Railways Act, 1868, apply; otherwise their decision is final and conclusive.<sup>2</sup>

APPEALS UNDER THE HOUSING AND TOWN PLANNING ACT,  
1909.

Appeals.	Against Notices to execute Works : s. 15 (3).	Against Closing Orders : s. 17.	Against Refusal to deter- mine Closing Orders : s. 17.	Against Demoli- tion Orders : s. 18 (2).	Totals.
Carried over from March 31st, 1912 .	4 (12)	18 (23)	1 (11)	4 (34)	27 (140)
Received during twelve months ended March 31st, 1913 .	10 (140)	57 (260)	4 (16)	15 (79)	86 (495)
Abandoned .	10 (125)	44 (174)	1 (11)	7 (26)	62 (336)
Not entertained as not made within prescribed time .	1 (1)	1 (2)	—	1 (3)	3 (6)
Not formally deter- mined; orders in- valid or inoperative	—	2 (11)	—	—	2 (11)
Upheld without in- quiry . . . .	—	1 (1)	—	2 (23)	3 (24)
Upheld after inquiry .	1 (24)*	2 (6)	—	—	3 (30)
Dismissed after in- quiry . . . .	1 (1)	12 (63)	1 (4)	3 (23)	17 (91)
Not disposed of at March 31st, 1913 .	1 (1)	13 (86)	3 (12)	6 (38)	23 (137)

Figures in parenthesis indicate number of houses in respect of which notices were served or orders made.

\* Notices quashed as regards 18 houses and varied in respect to 6 houses.

<sup>1</sup> Section 69.

<sup>2</sup> Public Health (First Series: Unsound Food) Regulations, 1908, art. XIII., and Public Health (Milk and Cream) Regulations, 1912, art. X.

*Inspection and Inquiry.*—Before making the special orders, giving their consent to various proposals of local authorities, deciding appeals, or requiring local authorities to perform specific duties, it is necessary that the Local Government Board be fully informed upon the matters in question. For this purpose they have very full and extensive powers of inquiry and inspection, some of which are expressly provided for, whilst the remainder are exercised under powers given by the Local Government Board Act, 1871,<sup>1</sup> and the Public Health Act, 1875.<sup>2</sup> The former transferred to the Board the powers of the Privy Council to “from time to time cause to be made such inquiries as they might see fit in relation to any matters concerning the public health in any place or places, and to the observation of the regulations and directions issued by them under this Act.”<sup>3</sup> The latter gives the Board power to make such inquiries as are directed by the Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval, or consent is required. For this purpose the inspectors of the Board have powers not only to attend meetings of the local authorities,<sup>4</sup> but to call for and examine all persons, books, documents, and other matters relevant to the subject of inquiry; they may summon witnesses to attend and administer oaths, refusal to attend or give evidence, giving false evidence or destroying or altering documents being punishable as a misdemeanour.<sup>5</sup> The Board, whose decision is final, may make orders fixing costs and determining by whom they are to be borne. Similar powers are given to the Board’s inspectors for the purposes of the Canal Boats Acts.<sup>6</sup>

<sup>1</sup> Section 2.

<sup>2</sup> Sections 293 *et seq.*

<sup>3</sup> Public Health Act, 1848, s. 3.

<sup>4</sup> Public Health Act, 1875, s. 205.

<sup>5</sup> *Ibid.*, s. 296; Poor Law Boards Act, 1847, ss. 21 and 26.

<sup>6</sup> Canal Boats Act, 1884, s. 4.

Inquiries are expressly directed in cases where objection is made to the construction of sewage works outside the district of the local authority<sup>1</sup> or to the construction of a large reservoir for water,<sup>2</sup> as well as in cases where it is proposed to purchase land otherwise than by agreement<sup>3</sup> or borrow money in excess of a certain amount.<sup>4</sup> No appeal under Part I. of the Housing and Town Planning Act, 1909, may be dismissed by the Board without a local inquiry,<sup>5</sup> a similar requirement being made in cases where complaint is received that a local authority is neglecting its powers under Parts II. and III. of the Housing of the Working Classes Act, 1890,<sup>6</sup> or under Part II. of the Housing and Town Planning Act,<sup>7</sup> or that a medical officer of health has failed in his duty to inspect and represent to his authority any area complained of as unhealthy.<sup>8</sup> For the purpose of deciding whether or not any powers under the Housing Acts should be put in force in a district the Board may require the local authority to make a report to them upon the density of population and such other matters as they may direct.<sup>9</sup> The information thus obtained enables the Board to exercise a certain amount of pressure and persuasion which may be successful without entailing the expense of a public inquiry.

Inquiries and inspections by the officers of the Board are not always public ; many are informal, being frequently suggested by observations or statements in the annual reports of medical officers of health and inspectors of nuisances, but where an inquiry is specified as a necessary part of the procedure preliminary to action by the Board,

<sup>1</sup> Public Health Act, 1875, s. 34.

<sup>2</sup> *Ibid.*, s. 52.

<sup>3</sup> *Ibid.*, s. 176.

<sup>4</sup> *Ibid.*, s. 234.

<sup>5</sup> Section 39.

<sup>6</sup> Housing and Town Planning Act, 1909, s. 11.

<sup>7</sup> *Ibid.*, s. 61.

<sup>8</sup> *Ibid.*, s. 26, and Housing of the Working Classes Act, 1890, s. 16.

<sup>9</sup> Housing and Town Planning Act, 1909, s. 37.



public announcement must be made of its time, place, and purpose. During the year ending March 31st, 1913, nearly 1,300 local inquiries, preceded by public announcement, were made by the English inspectorate, in addition to a large number of visits, not so announced, in reference to the sanitary condition of towns and villages and sewage disposal and other sanitary works for which loans had been sanctioned and other matters.<sup>1</sup> The following statement indicates the general purposes of inquiries made by inspectors of the medical department of the Board during 1912—1913 <sup>2</sup> :—

Inquiry in Reference to	Urban Districts.	Rural Districts.	Total.
Infectious disease . . .	17	5	22
Sanitary administration.	8	7	15
Housing . . . . .	15	12	27
Hospitals . . . . .	{ 11      5 and 9 joint hospital districts }		25
Sewerage and sewage disposal . . . . .	7	2	9
Water supply . . . . .	1	4	5
Scavenging . . . . .	2	3	5
Bye-laws and regulations			
Conferences :— . . .	2	2	4
Plague . . . . .	{ 4      1 (and 1 port sanitary authority) }		6
General sanitation. . .	{ 19      24 (and 3 port sanitary authorities) }		46

In addition to which the medical inspectors conferred on sanitary matters with the officials of twenty-one urban districts and nineteen rural districts.<sup>3</sup>

<sup>1</sup> Forty-second Report of the Local Government Board, Part III., p. xcvi.

<sup>2</sup> *Ibid.*, Medical Officer's Report, pp. 257 *et seq.*

<sup>3</sup> *Ibid.*, p. 149.

It is the practice of the Board, in the case of public inquiries in respect of housing, sewerage, and, where the county council desires it, water supply, to notify the county council of the district concerned of the time and place of the inquiry, but this practice is not extended to the cases of informal inspections, which might lose some of their efficacy if they were announced beforehand. These inquiries form a valuable means of obtaining first-hand information as to the sanitary circumstances of any particular district,<sup>1</sup> and of enabling the Local Government Board to determine where an exertion of their most drastic powers of executing or compelling the local authority to perform their duties is called for.

The audit of the accounts of local authorities by the district auditors of the Board is a function which rightly comes under this class-heading, but has been sufficiently dealt with elsewhere.<sup>2</sup>

*Executive and Compulsory Powers.*—Being satisfied of the necessity for intervention in the sanitary administration of any district, the Board seldom proceeds to the full limit of its powers before endeavouring to secure its ends by persuasion. The records of such efforts and their results cannot be tabulated; they are, if mentioned, stated in general terms, as when the Board reported that "We have been in correspondence with a number of districts in which conversion of sanitary conveniences to the water carriage system is not proceeding at a satisfactory rate, and we have in many cases succeeded in inducing councils to take a more serious view of their responsibilities in this matter."<sup>3</sup>

When, however, advice and persuasion fail to awaken a local authority to a sense of its duties, and it neglects to obey the order issued by the Board, the latter is endowed

<sup>1</sup> See Reports of Medical Officer of Local Government Board for reports of inspectors.

<sup>2</sup> See Chapter XXIII.

<sup>3</sup> Forty-second Report of the Local Government Board, Part III., p. li.

with powers either to compel the authority to perform its duties or to themselves appoint persons or authorities to carry out the duties.<sup>1</sup> The exercise by a local authority of its discretionary powers cannot be so enforced, but there are optional powers, such as those dealing with the cleansing of streets and removal of house refuse,<sup>2</sup> and the provision of mortuaries,<sup>3</sup> which the Local Government Board is enabled to transform into duties. The general power of the Board to enforce the performance of a duty by a defaulting local authority is contained in section 299 of the Public Health Act, 1875, which specifies several cases in which it may be exercised, such as neglect to provide sufficient sewers or water supply or to maintain existing sewers, as well as default in enforcing any provisions of the Act which it is their duty to enforce. The Local Government Board must make inquiry and, if satisfied that the alleged default exists, must make an order limiting the time for the performance of the duty by the authority. In case the order is not obeyed, the Board have the option of appealing to the High Court for a *mandamus*, in which case the dispute is no longer between the Board and the authority, but between the latter and the court, or the Board may appoint some person to perform the duty at the expense of the local authority, from whom the costs may be recovered. As previously noted,<sup>4</sup> however, the default of the local authority as regards its duty in relation to nuisances may be met by the Board authorising a local police officer to act as an inspector of nuisances and institute any proceedings which the authority might institute in respect of such nuisances.<sup>5</sup>

Similar powers are contained in other Acts for the purpose of enforcing the performance of duties thereunder. The Home Secretary may authorise a factory inspector

<sup>1</sup> Public Health Act, 1875, s. 299.

<sup>2</sup> *Ibid.*, s. 42.

<sup>3</sup> *Ibid.*, s. 141.

<sup>4</sup> Chapter XII.

<sup>5</sup> Public Health Act, 1875, s. 106.

to use the powers of a neglectful local authority to enforce the provisions of the Factory and Workshop Acts and to recover the expenses thereby incurred.<sup>1</sup> The Board of Agriculture may empower any person named in its order to execute and enforce any of the provisions of the Diseases of Animals Act, 1894, or orders made thereunder, which the local authority has failed to execute and enforce.<sup>2</sup> And both the Local Government Board and the Board of Agriculture may, after warning a negligent authority, empower an officer to execute and enforce or procure the execution and enforcement of the provisions of the Food and Drugs Acts within the district, but in this case the power to execute may be discarded and a writ of *mandamus* applied for.<sup>3</sup>

Resort to the High Court for a *mandamus* is also provided to enforce orders upon local authorities to exercise their powers under Parts I., II., and III. of the Housing of the Working Classes Act, 1890,<sup>4</sup> but as regards the last two parts an order to execute the necessary works may be addressed, with its consent, to the county council.<sup>5</sup> An order of the Board requiring a local authority to prepare a town-planning scheme or to consent to modifications or conditions imposed by the Board is enforceable by *mandamus*, but neglect to carry out an order requiring them to adopt a scheme proposed by landowners may be met by the Board's approval of such scheme, which then has the same effect as if it had been adopted by the local authority.<sup>6</sup>

Careful observers have expressed doubts as to the efficacy of these methods of control,<sup>7</sup> and even a high official of the Local Government Board has stated that

<sup>1</sup> Factory and Workshop Act, 1901, s. 4.

<sup>2</sup> Diseases of Animals Act, 1894, s. 34.

<sup>3</sup> Food and Drugs Act, 1899, s. 3.

<sup>4</sup> Housing and Town Planning Act, 1909, ss. 10 and 11.

<sup>5</sup> *Ibid.*

<sup>6</sup> Housing and Town Planning Act, 1909, s. 61.

<sup>7</sup> Ashley, "Local Government," pp. 53 *et seq.* Compare Webb, "The State and the Doctor," and "Grants in Aid."

“for various reasons central compulsion of defaulting authorities is not generally successful; and the only provision—apart from an educated and responsible public opinion—likely successfully to replace compulsion would be the institution of grants in aid of definite execution of sanitary administration, the grants depending on the work actually accomplished.”<sup>1</sup> These opinions have at last been adopted by the Government, and the Chancellor of the Exchequer, in outlining his proposals for a system of grants in aid of housing efforts of local authorities, referred to present methods of compulsion in the following terms<sup>2</sup>:—

“As to the housing problem, we are on the eve of proposing great changes to deal with it. The first thing is to put local authorities in a position to enable them to carry out these proposals without being crippled and handicapped by rates. Now, the only pressure you can bring to bear upon public authorities to deal with public health is through the obsolete, antiquated, and futile method of the *mandamus*. You may as well go into action armed with a flint-axe as a *mandamus*. The idea that you could march off the whole of the members of a municipal corporation that is levying rates of nine, ten, or eleven shillings in the pound because they really cannot face the problem of finding another 2*d.* or 3*d.* is a thing that no Local Government Board has ever been able to bring itself up to the point of doing.”

But because few cases occur in which either remedy is sought by the Local Government Board it does not follow that the latent power is quite useless; such power always lies at the back of orders, as the latter lie at the back of the advice and persuasion which are incessantly given and used with good effect by the Board. Like all ultimate penalties, the potency of such powers is not to be judged merely by the number of times they are exercised.<sup>3</sup>

<sup>1</sup> Thirty-ninth Report of the Local Government Board, Medical Officer's Report, p. xv.

<sup>2</sup> The Right Hon. D. Lloyd George in introducing the Budget, May 4th, 1914. Compare Webb, “Grants in Aid,” p. 18.

<sup>3</sup> An instance of the effect of applying for a *mandamus* is given in the Forty-second Report of the Local Government Board, Part III., p. xlix.

*Advisory.*—The central departments of the Government act as reservoirs into which flow from all parts of the country and from many parts of the world much information and statistics bearing upon the work they, and the local authorities they supervise, have to perform. From such reservoirs might be distributed the essence of this information for the guidance and advice of local authorities. In addition, the various departments employ a large number of experts in different branches of knowledge who undertake research work, and whose skill and experience are placed generally and specially at the disposal of authorities desirous of utilising them.

The mass of this information is contained in the annual reports of the Local Government Board, of which Part II. deals with housing, issued separately for the first time in 1913, Part III. with public health and local administration, county council administration, and local taxation and valuation, the report of the medical officer being issued as a supplement.

Almost every Act of Parliament and general order or regulation of a central department which affects the duties of an authority or its officials is introduced to their notice, explained and commented upon in circulars and memoranda, and information dealing with such matters as the extermination of rats, prevention of tuberculosis, construction of sanatoria, and the extent and nature of voluntary health societies is issued as occasion arises. The literature thus issued forms a voluminous but incomplete and unorganised mass of information upon the powers, duties, activities, and technique of sanitary authorities and administration. But "it is surprising how little is known, even to the Local Government Board, of what the several local authorities are doing or leaving undone in the domain of public health. Even the Poor Law Commission was unable to obtain any statistical or other information for the kingdom as a whole as to municipal hospitals, health visiting, the treatment of

phthisis, the campaign against infant mortality, the extent and the diseases to which voluntary notification is in operation, and many other points.”<sup>1</sup> The President of the Board has recognised the deficiency due to the absence of an intelligence department, and has announced his intention of making good the defect.<sup>2</sup>

In another respect the Board is behind the Boards of Trade and Agriculture: it does not issue a gazette or journal dealing periodically with matters which concern its sphere of administration. This is an omission which could be made good with considerable advantage, affording, as it would, not only immediate information to officials, but, by being placed upon library tables, bringing clearly before the public matters with which it is closely concerned—those pertaining to the public health.

<sup>1</sup> Webb, “The State and the Doctor,” p. 209.

<sup>2</sup> The Right Hon. H. Samuel in the House of Commons, June 18th, 1914.

## CHAPTER XXVI.

### VOLUNTARY AGENCIES AND EFFORTS.

IT is a feature of English social life that whenever and wherever a few people having ideals or interests in common meet together they form a club, society, or association to propagate their ideas or to more effectively pursue their interests. This is as true of philanthropic work as it is in the domains of industry, commerce, and politics; and the sphere of public health effort provides numerous examples illustrating alike its necessity and its defects.

Care for the sick and infirm has been at all times an important work undertaken by the charitably disposed.<sup>1</sup> But philanthropy proved quite inadequate to meet the demands made upon it when the rapid growth and concentration of population resulting from the industrial revolution created problems of a magnitude, complexity, and character hitherto unknown. At the same time an important change took place in the attitude towards the problems. Hitherto the work undertaken was palliative or, at best, curative, but with the advance of scientific knowledge and the development of the germ theory of disease the idea of prevention took premier place, and this idea could only be put into general and effective practice by the State acting through local authorities endowed with adequate powers for the purpose.

During the height of the crusade against insanitary environment voluntary effort relapsed into comparative insignificance; it built and maintained hospitals, made sporadic attempts to deal with the housing question, and endeavoured to provide some system of skilled home

<sup>1</sup> B. Kirkman Gray, "A History of English Philanthropy."





Special health-promoting institutions	.	9
" " " " (children)	.	8
" " " " (maternity)	.	5
" " " " (housing)	.	7
" " " " (insanity)	.	3
" " " " (physical de-		
velopment)	.	1
" " " " (professional)	.	9
" " " " (temperance)	.	20
" " " " (tuberculous)	.	1

As regards the metropolis, a return of voluntary health societies prepared by the Central Health Committee (Voluntary) for London, and published by the Local Government Board early in 1914, gives a list of the names and functions of sixteen central societies, nine of which are included in Miss Halford's list, and twenty-nine local societies, practically all the latter dealing in some form or other with the mother and her children. The following summary of the work of the St. Marylebone Health Society, which is supported entirely by voluntary subscriptions, is typical of the efforts of these institutions <sup>1</sup> :—

" Mothers' Club : South, 50 members ; north, 148 members ; average weekly attendance, 90—100.

" Infant Consultations : No. of attendances in 1912—south, 1,099 ; north, 1,921.

" Maternity Provident Club : No. of members at end of 1912—south, 47 ; north, 0.

" Mothercraft Competitions : One held in the south and one in the north of the borough in 1912.

" General Health Visiting : In the south 2,026 visits and in the north 2,628 visits were paid : 21 visitors were working in the south and 16 in the north.

" The Women's League of Service has dinners for nursing and expectant mothers, and is used in the north of the borough by the infant consultations.

" The society co-operates with the Public Health Department of the local authority. The medical officer of health is chairman of the executive committee of the society, and the lady sanitary inspectors notify births to the society to be visited and reported on."

<sup>1</sup> Return of Voluntary Health Societies," p. 30,

Voluntary associations may be classified according to the way in which their functions are related to those of the local sanitary authorities. Looked at from this point of view, it is possible to distinguish five classes of efforts which while not being in every case mutually exclusive, are yet sufficiently distinct to merit separate mention. Their functions may be divided into—(a) Professional ; (b) Educational ; (c) Stimulative ; (d) Supplementary ; and (e) Complementary. All or any combination of them may be found to be carried on by various societies, and it is possible for the same function to come, at different times or places, under different headings.

(a) *Professional*.—These comprise the various societies, such as the Society of Medical Officers of Health and the Sanitary Inspectors' Association, having for their purpose the improvement of the education and status and the protection of the interests of their members. At periodical conferences and meetings matters of professional interest are discussed and members obtain that contact with other minds and knowledge of other efforts which is essential for efficient administration. The societies mentioned publish monthly journals<sup>1</sup> and keep watchful eyes upon legislative or administrative action which may adversely affect their members. Beyond this they form admirable bulwarks against injustice, the fact that they have a strong society behind them enabling many officers to perform their duties fearlessly in the face of threats from aggrieved councillors or local residents.

(b) *Educational*.—It is perhaps safe to say that in some degree every society endeavouring to favourably affect the public health has functions of an educational character. These societies vary from such institutions as the Royal Sanitary Institute, which not only promotes scientific research and holds meetings and conferences at which the greatest sanitary experts give of their best, but trains and examines a large proportion of the sanitary officials

<sup>1</sup> *Public Health and the Sanitary Inspectors' Journal*,

of the country, to a small local health society, which arranges for the necessary hygienic knowledge to be imparted to expectant or nursing mothers by a voluntary worker at a "baby welcome" or school for mothers, and incidentally gives some sort of training to voluntary health workers. Work of this character is becoming so important a feature of voluntary health effort that it is rightly considered under the heading of complementary functions.

(c) *Stimulative*.—In many places, especially where housing accommodation is defective or deficient, the local health or housing councils bring influence to bear upon the responsible local authorities, pressing upon them the importance of an effective use of their powers under the Public Health and Housing Acts. Candidates for election are questioned and asked to pledge themselves to support an energetic sanitary administration; in some cases candidates are specially nominated for the purpose, whilst in others the society, collecting evidence by means of voluntary inspectors and inquirers, sends complaints and makes representations to the local authority, and may even, in case of continued neglect, complain to the Local Government Board of insanitary conditions or lack of housing accommodation. In one instance a candidate for a borough council made special inquiries whilst canvassing, and daily forwarded batches of complaints to the local medical officer of health.

Such societies have great value as educational agencies, informing the public and focussing its attention upon matters which are neglected by the local authority. Important national institutions of this character are the Rural Housing and Sanitation Association, the Workman's National Housing Council, and the Coal Smoke Abatement Society; while the Mansion House Council on Health and Housing has rendered valuable service by its efforts to improve the sanitary condition of London dwellings. The two last societies employ inspectors to make smoke

observations and to report upon groups of houses alleged to be unhealthy ; during 1911 the Mansion House Council made 2,651 inspections dealing with 1,068 cases spread over twenty of the London boroughs. The results are forwarded to the local authorities concerned and so direct the officials' attention to cases requiring administrative action. It is sometimes alleged by officials that such complaints are often puerile owing to the lack of legal knowledge and a sense of responsibility in the inspectors of such societies, but on the whole there seems to be no doubt that their action is justified and beneficial.

(*d*) *Supplementary*.—The efforts last dealt with would rightly come within this category, but for the fact that whatever inspection or observation has been made by the voluntary worker must again be made by the official whose statutory duty it is to enforce the law. Under the general title of "health visiting," however, there is a vast field of effort which may be covered indifferently by voluntary workers or officials ; in many cases, indeed, both are at work in different areas of the same district. The functions thus performed are those of visiting and advising in cases of childbirth, tuberculosis, measles, and similar complaints. Here it is not a question of enforcing statute law, but of impressing upon the people the importance of the laws of health ; and, since an unselfish devotion of much time and tireless effort are requisite, the utility of the efficient voluntary worker is enormous.

The relations of such agencies and workers to the officials of the public health department vary between the cases where the local authority, after inquiry by an official, merely provides a list of cases suitable for visiting to those in which the voluntary health visitors act directly under the instructions of the medical officer of health and report direct to him upon the sanitary aspects of the case, the society dealing with other social conditions as inquiry proves necessary or desirable. It is the general rule that sanitary defects heard of or discovered are reported to

the sanitary department for investigation by the sanitary inspector, and where the relations between voluntary agencies and the local authority are most harmonious many matters are referred to the former by the latter.

(e) *Complementary*.—Under this heading come all those functions which, although aiming essentially at the promotion of the public health, are practically neglected by public health authorities either because powers are lacking or more often on account of the experimental character of the function. They are different from and an addition to the normal functions of the sanitary authority, rounding off and filling in the lacunæ of official effort. These functions are chiefly connected with maternity and infant welfare, to meet the difficulties of which are instituted staffs of nurses, provident clubs and schools for expectant mothers, infant consultations, babies' welcomes and crèches, at which much valuable and expert voluntary service is given. In many cases cheap meals are provided for expectant and nursing mothers, as well as properly prepared milk where it is impossible for mothers to feed their infants, whilst other eleemosynary aid is often provided where the circumstances seem to require it. Even in this sphere, however, local sanitary authorities are not altogether absent. In many cases the health officers take an active interest and share in the work, whilst in a list of over eighty schools for mothers and similar institutions, tabulated in an extremely interesting and valuable report prepared by Mr. I. G. Gibbon for the National League for Physical Education and Improvement, six were municipal institutions<sup>1</sup> and eleven received financial contributions from the municipality.<sup>2</sup>

It is obvious that voluntary effort is already occupying an important position in the crusade for improved public health, but with regard to it there are two tendencies

<sup>1</sup> Birmingham (two), Sheffield, Cardiff, Glasgow and Dundee.

<sup>2</sup> Report of the First Conference of Health-Promoting Institutions, pp. 142 *et seq.*

manifesting themselves. There is a current and counter-current in the relations between such efforts and those of the statutory sanitary authorities. On the one hand the number of voluntary visitors for health purposes appears to be increasing relatively to the number of paid officials, and on the other there is an increasing tendency for local authorities to undertake functions the utility of which has been demonstrated by voluntary enterprise. Both tendencies have their supporters and opponents; one side derides the "monotonies and rigidities of officialism," whilst the other scorns the "meddling of inexperienced amateurs."<sup>1</sup> As is usual in such controversies, the issue raised is generally a false one; it is too easily assumed that voluntary enterprise is antagonistic to official effort. There is no real opposition if a wide view of the field of work and the objective is taken.

"The ideal development of society is not the fashioning of a self-contained political State which should supersede the necessity for all the spontaneous associations of human beings which fill so large a part of actual life. It consists rather in the discovery of the lines upon which these manifold forms of human association can be brought each to its fullest pitch of efficiency as a part of a wider organisation."<sup>2</sup>

Mr. Hobhouse here strikes the note to which both voluntary worker and official should endeavour to attune themselves when considering their relative positions in the service of the public health.

The real question is not whether voluntary effort or official effort shall predominate in public health work, but how the work to be done shall be shared and the various efforts co-ordinated to secure the desired end as efficiently and as economically as possible.<sup>3</sup> To achieve

<sup>1</sup> See discussions at the National Conference for the Prevention of Destitution (Public Health Section) and the Conference of Health-Promoting Institutions.

<sup>2</sup> L. T. Hobhouse in "Social Evolution and Political Progress."

<sup>3</sup> See B. G. Bannington, "The Voluntary Worker in Local Administration," in *Westminster Review*, June, 1913.

this it is essential that contact between the public health department and the voluntary agencies shall be close and friendly, but before this can be successfully attained the overlapping and consequent waste involved in the activities of so many health-promoting institutions must be ended. Steps are rapidly being taken in this direction, and the best promise for the solution of this preliminary problem is the fact that voluntary workers largely inspired by an eminent county medical officer of health, are recognising and endeavouring to remedy the defect.<sup>1</sup>

The same authority has laid down the following principles which should govern the co-operation of voluntary agencies and the local health authorities <sup>2</sup>:—

“(1) The unification of health authorities in a county system under a partly co-opted health committee of the county council.

“(2) Organisation of a comprehensive county medical service, including both whole and part time officers.

“(3) Unification of certain local voluntary agencies under a county nursing association or a general welfare association.

“(4) Federation of certain voluntary agencies.

“(5) Official representation on the health authority, both expert and lay, of all voluntary agencies receiving facilities.

“(6) Official assistance by the Local Government Board in the supervision of the work of voluntary health-promoting institutions in receipt of public money.

With one exception, but that an important one, no objection will be raised to these principles by anyone taking a broad view of the question, but the proposal to introduce non-elected persons on to the sanitary authority would no doubt receive strenuous opposition. It not only departs from an essential principle of representative government, but it would involve an appeal to Parliament

<sup>1</sup> See papers by F. E. Freemantle at Conferences for the Prevention of Destitution and of Health-Promoting Institutions.

<sup>2</sup> Report of the National Conference for the Prevention of Destitution, p. 214.



in order to legalise such a proceeding. There is no justification for giving representatives of a society which organises a school for mothers or a system of visitation of tuberculous persons powers to influence questions of sewage disposal, slaughter-house licensing, or sanitary inspectors' salaries. On the other hand, if the local authority give the voluntary agency pecuniary, official, or informational aid in their special efforts, there is every reason why it should be represented on the governing committee of such society. This is the simpler and surer method, and it has the immense advantages of being perfectly legal and not infringing any established democratic principle.

The question of the scope of voluntary effort is more difficult and cannot be answered so as to apply definitely everywhere. As indicated, the range of such efforts is very great, and local circumstances must undoubtedly play a great part in determining their necessity. One obvious limitation appears to be set; voluntary effort should never undertake duties which have been placed by legislation upon local authorities. In this direction its efforts should be stimulative; a neglectful local authority is likely to become worse, not better, by having its omissions made good by outside effort. A second restriction must undoubtedly be set by any local authority utilising voluntary workers; it is extremely undesirable that any proceedings involving the use of statutory powers be taken by persons who are not definitely employed for the purpose. There can be neither the same sense of responsibility of the agent nor the strict control by the authority in the case of a voluntary worker as there is in the case of a paid official. To these considerations must be added the fact that officials are trained, chosen for their knowledge and experience, and have a permanent interest in their work, since their living depends upon their efficiency and good conduct. On none of these counts can the voluntary worker compare with the official,

although the defects of training are now being recognised and efforts made to remedy the deficiency.<sup>1</sup>

It may be concluded, therefore, that voluntary effort is playing an important part in the struggle to improve the public health and that it should, in the main, be directed to educating the people, stimulating the activity of local authorities, and rounding off and complementing official effort. In this direction it will grow in importance and effect, as it is recognised that to be efficient its workers must be trained, their efforts directed to the most suitable objects and co-ordinated with those of the local officials, and that the relations between the voluntary agency and local authority must be close and definite, involving no control where there is no responsibility and no responsibility where there is no control.

<sup>1</sup> E. J. Urwick, "The Future of Voluntary Social Work," in *Clare Market Review*, Vol. IX., p. 46.

## CHAPTER XXVII.

### THE NEED FOR REFORM.

AT the conclusion of a survey of the machinery by which it is sought to promote the public health the questions inevitably arise :—How does it work ? Does it achieve its object with a minimum of friction and waste ? And does the action of the national and local officials stimulate the individuals for whom they work to efforts on their own behalf ?

Judged by the national vital statistics, there can be no question that it has been effective. The general death rates for England and Wales were 19·9 per 1,000 in 1850, 19·3 in 1890, 15 in 1907,<sup>1</sup> and 13·7 in 1913 ; and the infantile mortality, which was 146 per 1,000 births in 1850, 151 in 1890, 118 in 1907,<sup>2</sup> has been reduced to 109 in 1913. During the same period typhus and cholera have been practically wiped out, small-pox, despite the increase of unvaccinated persons, has been reduced to small and easily controlled proportions, typhoid fever has been diminished by four-fifths, and deaths from tuberculosis have undergone a 50 per cent. reduction. These figures and facts disclose positive gains, and it may be that they have been cheaply purchased, indicating as they do general improved health and longer life. But they do not afford any answer to the question as to whether or not we are justified in thinking that they could not have been gained by a less expenditure of effort and wealth or that the same expenditure could not be expected to have given better results. They indicate

<sup>1</sup> " Public Health and Social Conditions " (Cd. 4671), p. 25.

<sup>2</sup> *Ibid.*, p. 27.

progress, but give no data for its comparison with efforts.

Unfortunately such data are impossible to obtain. If it is desired to answer the question involved, the only method at our disposal is to critically examine the machinery. Is it as simple as possible having regard to the work it has to perform? Does it cover the whole field of efforts without overlapping? Does it combine with other non-governmental agencies so as to prevent duplication of public efforts by voluntary endeavour? To attempt to answer these questions involves critical and constructive work of far too great a magnitude to be attempted here. They open out a sphere of thought for which some of those who are studying public administration in our universities might well forsake the comparative ease of descriptive work and exercise their imaginative and constructive faculties for the improvement of a domain of administrative effort which sadly needs it.

It is, however, impossible to close this book without in some measure amplifying criticism which has been made, *en passant*, in the preceding chapters. It cannot have escaped notice that the basis of public health legislation is forty years old, and that upon this has been reared a complex mass of statutes, orders, and regulations which are made more complicated and various by adopted and private Acts, bye-laws, and regulations, differing in each locality. A glance at such a small volume as Knight's "Public Health Acts" (1908 edition) discloses the fact that out of forty-nine Acts given therein two-fifths may be quoted as Public Health Acts. The standard legal work, Lumley's "Public Health" (7th edition), runs to 2,412 closely-printed pages of Acts, orders, &c., with the editor's notes thereon, forty-four Acts, up to and including the Public Health Acts Amendment Act, 1907, being set out in full and 160 others bearing upon the subject dealt with. In addition there are 343 pages of orders, regulations, and memorandums, a table of relevant

statutes covers 48 pages, and a list of decided cases—judge-made law—printed in double-column occupies another 95 pages.

With such a superabundance of statutory, sub-statutory, and judicial law it is not surprising that there is often a great difference between what Parliament meant, what ordinary people believe they meant, and what judges decide they meant. Despite this, no one can exactly define the difference between a drain and a sewer, or what constitutes a nuisance, or the standard of fitness for human habitation of a dwelling-house ; and because of it the methods of adopting Acts, the powers of entry, and the means of securing the abatement of nuisances are bewildering in their variety. Such conditions as these give point to the recent assertion of an expert publicist <sup>1</sup> :—

“ That our existing codes of health laws are neither practically efficient nor sufficient for the purpose originally intended and still expected by the public. The methods of administration are too intricate and confused, the wide differences of opinion as to scope and definition are fatal to direct and speedy action, and in the result we get the maximum of cost and effort to the minimum of result, a comparatively low standard of administrative efficiency, and a money cost to the ratepayer out of all proportion to the improvement effected.”

The necessity for a general overhauling and consolidation of laws was never greater than it is to-day in connection with public health legislation ; and yet the work involved is so arduous, the fear that in seeking to improve much that is good might be lost is so great, and the fact that such a task, even if successfully achieved, is not very likely to be an asset in party politics makes such a consummation seem almost too remote to hope for.

The confusion which the Royal Commission found in 1870 amongst the authorities dealing with the discovery and suppression of nuisances is fortunately no longer in existence. In this branch of the service there is complete-

<sup>1</sup> *Municipal Journal*, May 29th, 1914, p. 653.

ness of organisation and a separation of jurisdiction which permits of no overlapping or lacunæ, but the efficiency of inspection and the enforcement of the law exhibits a very wide range of difference. In some areas special inspectors are so numerous that the public are said to be "inspected to death," in others inspection is so slight in amount that the people may be said "to die without inspection." And efficient and energetic officers may meet with a blank wall of opposition in the form of a council reluctant to sanction the legal proceedings necessary for the enforcement of the law. Add to this the obvious unwillingness or even antagonism of many magisterial benches when asked to punish those who refuse to carry out the legal demands of local authorities, and it is easy to see that there are numerous factors creating friction and waste in the administration of the law.

When, however, we turn from the efforts aimed at the prevention of disease to those occupied with its treatment and cure we reach a realm of the greatest confusion, overlapping, and gap-leaving that it is possible to imagine. Here the efforts of public institutions and authorities and voluntary institutions and agencies are made with little regard to co-ordination and economy; and the National Insurance Act, extending the public treatment of sickness, has only increased the confusion. It is now possible in some districts to have members of the same household undergoing treatment in the institutions or at the hands of the officers of the sanitary authority, the guardians of the poor, the education committee, the insurance committee, and some one or more of the voluntary hospitals or nursing associations. On the other hand, there are districts where, unless a person is destitute or insured, there is practically no treatment provided, however, necessary it may be. It is needless to labour this very serious defect; it was scathingly exposed in the Minority Report of the recent Poor Law Commission, and some slight efforts are being made to rectify it in

various directions. The establishment of a public medical service available for all persons of all ages and both sexes, centering upon and directed from the public health department of the local authority, is urgently called for. It does not reflect favourably upon our sanitary service that in the best administered districts there is no medical aid and advice provided for the four years preceding the school age or for the two or three years between the time of leaving school and the age of sixteen years, when many become "insured persons"; and the existence of two authorities, one of which welcomes and treats all suffering from certain diseases without regard to economic circumstances, whilst the other avoids giving any aid or treatment unless the person is quite destitute, is too absurd an anomaly to be tolerated much longer.

Avoiding the objection that a general provision of treatment for ill-health is likely to sap independence and pauperise the recipients, involving all the evil consequences that the Poor Law Commission reported upon in 1834, the question is largely a financial one. It is not difficult to provide against possible pauperisation; administrative co-ordination can be achieved without difficulty, but the financial burden is one that many, perhaps most, authorities could not possibly undertake at the present time without some measure of equalisation. This, in the main, can only be done by a reorganisation of the financial relations between the central Government and local authorities, for which proposals have recently been submitted to Parliament.<sup>1</sup> But the fact remains that the major part of the local sanitary authorities are too small and too poor either to properly administer or to adequately finance an efficient system of treatment and cure of disease.<sup>2</sup>

Financial assistance has long been asked for by local

<sup>1</sup> See Chapter XXIII.

<sup>2</sup> Compare Webb, "Grants in Aid," p. 24; and Report of the National Conference for the Prevention of Destitution, 1911, p. 229.

authorities, but when such assistance is forthcoming it ought to be, and undoubtedly will be, accompanied by a standard of efficiency which may tax to the utmost the resources of the smaller authorities. The recent proposals for grants in aid of the public health service are already creating disquiet, if not dismay ; assistance that was first asked for, then welcomed, is now being looked at askance, and demands are being made to have the " Lloyd George standard of efficiency " revealed before the local authorities express their thanks or organise their opposition.<sup>1</sup> Whatever may be the fate of the present proposals, there are four facts which stand out in bold relief when the question of the working of the administrative machinery of the public health service is considered. Firstly, it is certain that if a series of maps were prepared and shaded to indicate the varying adequacy and efficiency of the different branches of public health administration they would present a very intricate patchwork appearance ; secondly, the only admissible way of reducing the intricacy is by raising the standard of the less efficient districts ; thirdly, this can only be done by a more effective method of central control than is at present available ; and, finally, the only effective method is by grants in aid given only for approved purposes and subject to withdrawal where a minimum standard of efficiency is not attained and maintained.

The utility of the proposed central department of public health, with a responsible minister of Cabinet rank at its head, is not so evident. Sanitary authorities function for other purposes besides public health, and it is often difficult to determine whether a service—*e.g.*, scavenging of streets—is or is not a question of public health. And a consideration of perhaps greater importance is the necessity of avoiding a multiplicity of central departments with powers of interfering with local authorities. Once again

<sup>1</sup> See *Municipal Journal*, May 15th, 1914, p. 584, and July 3rd, 1914, pp. 806-7.



we arrive at questions of general local government with which it is beyond the scope of this book to deal, but it may be laid down as a general rule that the fewer and more powerful the authorities, central and local, are, the more efficient and consistent will be the general administration.<sup>1</sup>

Enough has been said in this and the preceding chapters to afford a general answer to the question whether the machinery for the promotion of the public health works with a minimum of friction and waste? <sup>2</sup> It may be confidently asserted that it is more efficient than it was, but that its imperfections are still very great. Its intricacies and complexities require simplification; it covers the field of efforts too unevenly, leaving parts quite untouched; it meets opposition where it ought to get assistance, and gets help without co-ordination of effort; and in many directions it lacks the motive power of an enlightened and vigorous public opinion. Fortunately the defects are being recognised and questions of public health are coming to the front in every department of social and political life. Public discussion is a necessary preliminary to reform, and when once it is realised that no branch of administration more closely affects the lives of the people than that concerned with public health the demand for its efficient organisation will rapidly follow and as surely be conceded.

It may therefore be affirmed without fear of contradiction that the time is ripe for a national survey of the institutions for and the methods of promoting the public health. Nearly fifty years have elapsed since the Royal Sanitary Commission reported upon the sanitary administration of the country and provided the information and impetus for its reorganisation and a consolidation of the law. The interval has been filled by scores of legislative

<sup>1</sup> See p. 293.

<sup>2</sup> See also papers read in Public Health Section of the National Conference for the Prevention of Destitution, 1911; and at the Conference of Health-Promoting Institutions.

enactments, and by hundreds of administrative experiments of which we have no complete and consistent records available for guidance. Local authorities muddle along, happy to avoid glaring failure, seldom achieving brilliant success. The central authority, infrequently inspired by men who know and think and desire, disperses information and guidance as casually as it collects it, and is without that comprehensive knowledge of the extent and ways in which local authorities have performed their duties and used their powers, which is an essential condition to action for a general levelling up of administrative efficiency. The facts that almost daily are being disclosed reveal the imperative importance of inquiry, and cry aloud for a statesman with the strength to demand and the genius to direct a broad survey of public health law and administration with a view to its reform and improvement.

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